

LONG RANGE BUILDING PROGRAM

PROGRAM DESCRIPTION

In 1963, the legislature enacted the Long-Range Building Program (LRBP) to provide funding for construction, alteration, repair, and maintenance of state-owned buildings and grounds. The program was developed in order to present a single, comprehensive, and prioritized plan for allocating state resources for the purpose of capital construction and repair of state-owned facilities. Historically, the LRBP has been funded with a combination of cash accounts and bonding. The various types of cash accounts include state and federal special revenue funds, other funds (such as university and private funds), and long-range building program account funds.

Figure 1 summarizes capital project appropriations for each biennium since 1999.

Long Range Building Program Capital Projects Appropriations by Fund Type and Biennium								
Biennium	LRBP Cash	Other State Funds	State Special	Federal Special	Authority Only (2)	Total LRBP Cash Program	G.O. Bonding	Total LRBP Program
1999	\$9,159,658		\$24,058,107	\$15,092,557	\$30,013,619	\$78,323,941	\$43,319,315	\$121,643,256
2001	7,515,000	\$170,000 (1)	22,204,804	39,236,497	46,495,000	115,621,301	33,403,750	149,025,051
2003	5,489,660		20,420,275	15,800,000	39,105,080	80,815,015	25,025,286	105,840,301
2005	3,281,500		24,044,460	11,319,212	41,095,000	79,740,172		79,740,172
2007	35,438,075	500,000 (3)	26,945,974 (4)	19,984,000	139,697,500	222,565,549	53,100,000 (5)	275,665,549
2009	130,130,000	22,793,000 (6)	53,197,160 (7)	48,178,978	49,685,000	303,984,138		303,984,138
(1) General Fund								
(2) Projects that require authority only to use higher education funds, proprietary funds, and General Service internal service funds, appropriations are not required								
(3) Capital Land Grant Funds								
(4) Excludes the HB 5 appropriation of \$133.8 million for Highway 93 construction projects (this is not a LRBP project)								
(5) Excludes the HB 540 bond authorization of \$19.5 million for the St. Mary's Water Project and the Ft. Belknap Water Compact (these are not a LRBP project)								
(6) Includes capital land grant (\$4 million), FWP capital projects (\$15 million), and DOC proprietary funds (\$293,000)								
(7) Includes an appropriation of \$26.0 million for Highway 93 construction projects (this is not a LRBP project)								

Figure 1

EXECUTIVE RECOMMENDATION

The executive request for the LRBP totals \$304.0 million for the 2009 biennium. The request includes a one-time general fund transfer to the long range building fund for major and deferred maintenance projects for state buildings of approximately \$66.5 million. The executive request also includes one-time general fund transfers totaling \$35.3 million for the construction and purchase of new buildings. Such items were previously funded with bond proceeds. The executive proposal includes no LRBP bonded projects for the 2009 biennium. The extensive use of one-time general funds in the LRBP demonstrates an investment on the part of the executive to reduce Montana's deferred maintenance backlog. This represents a cash program increase of more than 267 percent from the 2007 biennium, which results from the substantial use of one-time general fund monies in the program. The funding for the various cash projects is as follows:

- \$9.0 million long range building program projects funding (LRBP)
- \$14.3 million of ongoing general fund appropriations (LRBP)
- \$101.8 million general fund (one-time transfers) (LRBP)
- \$22.8 million "other" funds (including \$15 million of one-time general fund for FWP)
- \$53.2 million state special revenue (includes \$26 million for Highway 93 construction)
- \$48.2 million federal special revenue
- \$49.7 million in authority only

Note: The figures above do not sum to the amounts shown in Figure 1. This results from LRBP cash project requests exceeding the amount of funding available in the LRBP capital projects fund. For more information, see LRBP funding on page F-6.

Long-Range Building Program - Cash Projects Executive Recommendation - 2009 Biennium							
		Executive Recommendations - Cash Projects					
Rank	Project	LRBP	State Special	Fed Special	Other Funds	Authorization	Total
Department of Administration							
2	Roof Repairs and Replacements	\$3,000,000	\$392,160	\$68,040			\$3,460,200
3	Code/Deferred Maintenance Projects	2,500,000					2,500,000
5	Hazardous Materials Abatement	500,000					500,000
6	Code/Deferred Maintenance Projects, Capitol Complex					550,000	550,000
7	Upgrade Fire Protection Systems	500,000					500,000
8	Fire Protection Measures, Capitol Complex					500,000	500,000
19	Upgrade State Environmental Laboratory, Helena	1,000,000		1,000,000			2,000,000
21	Repair/Preserve Building Envelopes	1,500,000					1,500,000
23	Campus Infrastructure Projects	1,000,000					1,000,000
26	Mechanical System Improvements, Capitol Complex					1,900,000	1,900,000
28	MT Law Enforcement Academy, Phase 2 DM	500,000					500,000
33	Enterprise System Services Centers (Capital Land Grant Funds)*	20,150,000			4,000,000		24,150,000
35	Campus Master Planning	400,000				250,000	650,000
43	Challenge Grant for Super Computer, UM-MT Tech*	7,000,000				7,000,000	14,000,000
Department of Commerce							
29	Maintain Historic Buildings, Virginia & Nevada Cities	3,000,000					3,000,000
Department of Corrections							
10	Housing Unit Upgrades, MT State Prison	1,200,000					1,200,000
36	Expand Work Dorm, MSP*	2,500,000					2,500,000
41	Expand Food Service Capacity, MSP (DOC Proprietary Funds)	1,637,000			293,000		1,930,000
Department of Military Affairs							
46	Construct Female Showers and Latrines*	290,000		290,000			580,000
47	Montana State Veterans' Cemetery Expansion			1,206,000			1,206,000
48	DES Mobile Command Post*	172,500					172,500
49	Federal Spending Authority			2,000,000			2,000,000
44	Readiness Center, Miles City*	2,480,000		7,510,970			9,990,970
45	Armed Forces Reserve Center, Missoula (Other-General Fund)**			30,903,968	3,500,000		34,403,968
Department of Fish, Wildlife, and Parks							
61	Future Fisheries		1,314,000				1,314,000
62	FAS Acquisition		460,000	100,000			560,000
63	FAS Maintenance		350,000				350,000
64	FAS Site Protection		800,000				800,000
65	Hatchery Maintenance		500,000				500,000
Sub-Total		\$49,329,500	\$3,816,160	\$43,078,978	\$7,793,000	\$10,200,000	\$114,217,638

Figure 2 (continued on next page)

Long-Range Building Program - Cash Projects							
Executive Recommendation - 2009 Biennium							
Executive Recommendations - Cash Projects							
Project	LRBP	State Special	Fed Special	Other Funds	Authorization	Total	
	Balance:	\$49,329,500	\$3,816,160	\$43,078,978	\$7,793,000	\$10,200,000	\$114,217,638
Department of Fish, Wildlife, and Parks (cont.)							
66 Community Fishing Ponds			50,000				50,000
67 FWP Dams Repair			100,000				100,000
68 Habitat Montana			6,180,000				6,180,000
69 Upland Game Bird Program			1,258,000				1,258,000
70 Wildlife Habitat Maintenance			1,200,000				1,200,000
71 Migratory Bird Stamp Program			360,000				360,000
72 Bighorn Sheep			250,000				250,000
73 Parks Program	500,000	4,950,000	2,300,000				7,750,000
74 Access Montana (Gerenal fund OTO transfer to FWP capital project fund)				15,000,000			15,000,000
75 Grant Programs/Federal Projects			320,000	2,800,000			3,120,000
76 Admin Facilities Repair & Maintenance			800,000				800,000
Department of Justice							
42 Purchase Forensic Science Lab Building*	7,750,000						7,750,000
Department of Natural Resource and Conservation							
27 Code/DM and Small Projects, DNRC Unit Campuses - Statewide	750,000						750,000
38 Co-Locate DNRC/DEQ, Kalispell*	3,500,000						3,500,000
39 Consolidate DNRC Divisions, Missoula*	2,000,000						2,000,000
53 Bridge Replacement/Repair			750,000				750,000
54 Building Addition - Billings Oil and Gas Office*			750,000				750,000
Department of Public Health and Human Services							
1 Install Generator, MMHNCC	250,000						250,000
12 STEP Program Renovations, MSH, Warm Springs	5,800,000						5,800,000
16 Renovate/Improve Support Services, MSH	4,500,000						4,500,000
20 Modernize MMHNCC, Lewistown	500,000						500,000
31 Montana Veterans' Home Improvements			1,413,000				1,413,000
32 Improve Campus, MSH - Warm Springs	1,280,000						1,280,000
Montana School for the Deaf and Blind							
11 Replace Boiler	600,000						600,000
Department of Transportation							
50 Statewide Maint. Repair & Small Projects			2,300,000				2,300,000
51 Equipment Storage Buildings, Statewide			2,700,000				2,700,000
52 US Highway 93 Projects			26,000,000				26,000,000
Sub-Total	\$76,759,500	\$53,197,160	\$48,178,978	\$22,793,000	\$10,200,000		\$211,128,638

Figure 2 (continued from previous page)

Long-Range Building Program - Cash Projects							
Executive Recommendation - 2009 Biennium							
Executive Recommendations - Cash Projects							
Project		LRBP	State Special	Fed Special	Other Funds	Authorization	Total
Balance:		\$76,759,500	\$53,197,160	\$48,178,978	\$22,793,000	\$10,200,000	\$211,128,638
Montana University System							
4	Code Compliance/Deferred Maintenance, MUS	4,000,000					4,000,000
9	Systems Improvements, MT-Tech COT	925,000					925,000
13	Steam Distribution System Upgrades, Phase 2, UM-Missoula	2,000,000				1,000,000	3,000,000
14	Renovate Clapp Building, UM-Missoula	821,000					821,000
15	Renovate Armory Gym, MSU-Northern*	400,000				3,250,000	3,650,000
17	Renovate Main Hall, UM-Western	4,500,000					4,500,000
18	Renovate McMullen Hall, MSU-Billings	1,924,500					1,924,500
22	Stabilize Masonry, MSU-Bozeman	2,600,000					2,600,000
24	DM & Acquisition, MSU-AES Statewide	400,000				500,000	900,000
25	Classroom/Laboratory Upgrades - Montana University System	2,000,000					2,000,000
30	Utility Infrastructure Improvements, MSU-Bozeman	500,000				50,000	550,000
34	Supplement HCOT Expansion*	1,350,000				135,000	1,485,000
37	Renovate Gaines Hall, MSU-Bozeman	28,500,000					28,500,000
40	Law School Addition, UM - Missoula*	3,450,000				5,050,000	8,500,000
55	Increase Authority - Museum of the Rockies, MSU-Bozeman*					3,500,000	3,500,000
56	School of Education Building, UM-Missoula*					7,500,000	7,500,000
57	HHP Physiological and Nutritional Lab, UM-Missoula*					4,500,000	4,500,000
58	New Parking Structure, UM-Missoula*					5,000,000	5,000,000
59	General Spending Authority, MSU-All Campuses					5,000,000	5,000,000
60	General Spending Authority, UM-All Campuses					4,000,000	4,000,000
Total Cash Programs		<u>\$130,130,000</u>	<u>\$53,197,160</u>	<u>\$48,178,978</u>	<u>\$22,793,000</u>	<u>\$49,685,000</u>	<u>\$303,984,138</u>
* Denotes new construction / building purchases							
**The appropriation of general fund for the Department of Military Affairs, Missoula Armed Forces Reserve Center Project was not included in the executive proposal.							
As a result, the amounts of the total and other fund columns differ from the executive budget request. See the related "LFD Issue, Contingent Program Appropriation" on page F-5.							

Figure 2 (continued from the previous page)

The executive budget also includes a general fund one-time transfer of \$15 million for the Access Montana Program. The funds will be transferred to a Fish, Wildlife, and Parks capital projects fund. The funds will be used to acquire lands for public state park and fishing access sites statewide.

LFD COMMENT

Format Change: The Legislative Fiscal Division (LFD) has changed the format of the projects table shown in Figure 2. Now you will see a column titled "Authorization". Included in this column are projects funded from sources such as donations, University Funds, and General Service proprietary funds, or funds that do not require appropriation. The "Other Funds" column includes only those appropriations from atypical funding sources such as general funds and capital land grant funds. The LRBP projects bill will be formatted in agreement with this presentation. For a comparison to the executive budget recommendation, sum the "Authorization" and "Other Funds" columns.

**LFD
COMMENT**

Highway Project: The executive budget recommendation includes a \$26 million appropriation to expend bond proceeds for U.S. Highway 93 projects. This project is not a typical LRBP project, and lends the appearance of a significant increase in state special revenue spending in the 2009 biennium. In the past decade, LRBP state special revenue spending has averaged \$23.5 million per biennium. After reducing the 2009 biennium LRBP state special revenue spending by the recommended highway project, the spending is \$27.2 million. This represents an increase of approximately 16 percent from the ten year average state special revenue spending and an increase of 1 percent from state special revenue spending from the 2007 biennium.

**LFD
ISSUE**

Contingent Project Appropriation: The Missoula Armed Forces Reserve Center will replace the current Missoula Armory. The Department of Military Affairs (DMA) plans to sell the current armory and use the proceeds of the sale, up to \$3.5 million, for the purchase of new land for the Armed Forces reserve center. The proceeds of the sale will be deposited into the general fund, and the purchase of land will be expended from the general fund. Any proceeds from the sale that remain in the general fund following the purchase of land for the reserve center would be considered as an offset for the general fund OTO monies, as transferred to the LRBP capital projects fund, that are appropriated for the Miles City Readiness Center. The executive budget request did not include the appropriation of or any mention of the land sale or contemplated land purchase.

The construction costs of the new Armed Forces Reserve Center will be funded, according to the executive budget request, with an appropriation of \$30.9 million of federal funds. According to representatives at the Division of Architecture and Engineering (A&E), the land that the future center will occupy cannot be purchased with federal funds and must be purchased instead with state funds. Without the contingent appropriation, the building cannot be constructed as anticipated by the DMA.

There are alternatives available to the DMA if the sale of the Missoula Armory is not successful. For example, DMA could demolish the current armory and use that land to construct the reserve center or the DMA could use existing state land in their possession (if they have such land) for the site of the new reserve center.

This appropriation for \$3.5 million was not included in the executive budget request. The issue came to light as information was provided to the Legislative Fiscal Division by A&E during the budget analysis. The appropriation will only occur if the DMA is successful in the sale of the armory. Despite the fact that this is a contingent appropriation, it must be included in the calculation of total appropriations of the general fund. Consequently, the amount of LRBP total appropriations and authorizations differs by \$3.5 million between the executive budget proposal and the Legislative Fiscal Division analysis. However, the cost of the appropriation will be offset by the monies deposited in the general fund on the successful sale of the Missoula Armory. In other words, the actual effect on the general fund is a wash and potentially even positive if monies received from the sale of the armory are greater than monies needed for the purchase of land for the reserve center.

LRBP CASH PROGRAM

Figure 2 shows the projects recommended by the executive, listed by agency. Those projects denoted with an asterisk designate the new construction and purchase of buildings and amount to \$50.2 million, or 38.5 percent, of the total cash program. The remaining \$79.9 million of projects are deferred maintenance and repairs. The listed projects will be requested in the LRBP cash program bill, typically designated as HB 5, and are numbered to indicate priority.

Funding – Cash Program

LRBP Cash Program Funding

Funding for the Long-Range Building Program comes from various sources including the long-range building program account, state special revenue funds, federal funds, and other funds (such as university funds, private funds, and capitol land grant funds). Although the LRBP fund does not typically represent the largest portion of funding for capital projects, the revenues allocated to this account usually represent the only specific commitment of state funds for capital projects. In the 2009 biennium, the executive recommendation proposes a greater commitment to state building maintenance and construction by including one-time general fund transfers of \$101.8 million to the LRBP account. Further support is recommended in the executive budget with an on-going transfer of \$7.2 million each year for major maintenance and deferred maintenance projects in the LRBP. The LRBP account revenues include a 2.6 percent distribution of cigarette tax revenue and 12.0 percent distribution of coal severance tax revenue. Other income includes LRBP interest earnings and supervisory fees paid to the Architecture and Engineering Division (A&E) of the Department of Administration.

The LRBP account also receives some funds from the State Building Energy Conservation Program. Through this program, the state issues general obligation (G.O.) bonds, uses the bond proceeds to pay for energy efficiency improvements, and then uses the resulting energy cost savings to pay the debt service on the bonds. The projects are designed so that the cost savings exceed the bond debt service payments. Excess savings are transferred to the long-range building program.

Figure 3 shows the projected fund balance for the LRBP account for the 2009 biennium. As shown, approximately \$130.1 million is requested for cash program projects in the LRBP projects bill, leaving an estimated negative cash balance of \$541,564 at the end of the 2009 biennium. The fund balance estimate includes the proposed transfer of \$116.1 million from the general fund, \$14.3 million in continuing transfers and \$101.8 million in one-time only transfers. This estimated ending fund balance, prepared by the LFD, is slightly lower than that shown in the executive budget, primarily because of lower estimated coal severance tax revenues, as adopted by the Revenue and Transportation Interim Committee (RTIC).

Long-Range Building Program Fund (05009)	
Cash Balance Projection 2009 Biennium	
Estimated Beginning Cash Balance-(7/1/2007)	\$4,605,746
Revenue Projections ¹	
Cigarette Tax	\$3,871,000
Coal Severance Tax	8,870,000
Interest Earnings	3,300,239
Supervisory Fees	649,336
DEQ Transfer-Energy Savings	<u>82,365</u>
2009 Biennium Revenues	16,772,940
Expenditures	
Operating Costs-A & E Division	(3,415,744)
Debt Service-2005A ²	(1,022,440)
Debt Service-2003G ³	(3,607,245)
Debt Service-1999C	(854,018)
Debt Service-1997B	(270,803)
Funding Switch ⁴	<u>1,330,000</u>
Total Expenditures	(7,840,250)
Balance Available for Capital Projects	13,538,436
General Fund Transfer (new ongoing funding) ⁵	14,300,000
One Time General Fund Transfer ⁵	<u>101,750,000</u>
Total Available for Capitol Projects	129,588,436
Executive Proposals LRBP Cash Account ⁵	<u>(130,130,000)</u>
Estimated Ending Cash Balance - (6/30/2009)	<u>(\$541,564)</u>
¹ Based on RTIC revenue estimates	
² Refinance portions of 1997B and 1999C issues	
³ Refinance of 1996D issue	
⁴ Debt Service Funding Switch, 2001 legislative session	
⁵ Based on executive budget proposal	

Figure 3

**LFD
ISSUE**

Negative Ending Fund Balance in LRBP Fund: The LRBP fund will have an estimated negative ending fund balance of \$541,564. In planning the LRBP budget, the executive revenue estimates were used. The difference between the executive estimate of total LRBP revenue and the legislature's estimate equals \$596,457 and accounts for the shortfall in the fund. The legislative budget should be based on the "legislative" estimates, those adopted by the Revenue and Transportation Interim Committee, and the constitution states that appropriations should not exceed anticipated revenue. The Long-Range Planning subcommittee may wish to consider the following actions:

- The Long-Range Planning Subcommittee (LRP) could eliminate \$550,000 of LRBP appropriations
- The LRP could reduce one or more of the appropriations by \$550,000
- The LRP could increase the general fund OTO transfer by \$550,000

**LFD
COMMENT**

LRBP Funding: While not readily apparent in the 2009 biennium, the LRBP continues to experience reduced revenues that could become a significant problem in the future. The LRBP cash program has been supported by distributions from cigarette tax for many years. Coal severance tax support was added to the LRBP to provide debt service payments on three bond issues and since has become increasingly important to the support of the program. These two revenue sources provide the greatest part of the funding for the LRBP cash program. However, the base of the cigarette tax is expected to continue to decline in future years.

Since the early 1980's, LRBP account revenues have declined from an annual proportion of 1.74 percent to a current 0.15 percent of building replacement value. A&E recommends that not less than 1 percent, or nearly \$11.5 million, of building replacement value should be re-invested in state owned buildings annually for deferred maintenance of Montana's \$1.1 billion of general fund supported state owned buildings (including the University System). The 1 percent of building replacement value addresses construction needs beyond what would be considered typical operations and maintenance included in the operational budgets of the state agencies.

Deferred maintenance occurs as necessary maintenance projects are postponed until a future date, typically as a result of funding issues. In Montana, the primary funding issue has been the inadequacy of funding in the LRBP, or the state major maintenance program for buildings. Deferred maintenance has accumulated over time, creating a backlog of projects. The most recent estimate of that backlog is over \$240 million. Additionally, the cost of deferred maintenance increases both as an issue of time (maintenance costs increase as buildings grow older and inflation increases costs in time) and as buildings are added to the state's inventory.

The issue of the major maintenance funding inadequacy and the growing deferred maintenance backlog has generated the concern of both the executive and the legislature, and both have developed ideas on how best to attack the problem.

The LRBP executive budget proposal represents an effort by the executive to increase major maintenance funding. The executive budget recommendation would add new funds to the existing funding of the LRBP by appropriating \$7.2 million each year of general fund to the program.

The interim Legislative Finance Committee agreed, after committing time and research to the issue through an interim subcommittee, to sponsor a bill that would develop a new method of funding the LRBP, through a major maintenance funding surcharge. The rental surcharge proposal would eliminate all current funding streams into the LRBP and require the program to pay the debt service on four bond issues. The net/new cost of the proposal is estimated to be \$24.8 million in the first biennium.

The members of the 60th Legislature will be asked to consider the attributes of each plan and determine the best way to fund the LRBP in the future.

**LFD
ISSUE**

Invalid Appropriation: The executive budget request recommends an appropriation of \$7.2 million of general funds each year to the LRBP capital projects fund in the general appropriations act (HB 2). Regardless of the appearance of an appropriation, the transfer of funds from the general fund to the LRBP capital projects fund does not constitute an appropriation. The appropriation of these dollars in the general appropriations act was thought to increase the base of the Division of Architecture and Engineering however, because the transfer is not an appropriation, this action will not produce the desired effect.

Should the transfer of \$7.2 million per year be deemed an appropriation, discussion of the appropriation will be heard by General Government and Transportation joint subcommittee (GGT). Approval and potential changes of the appropriation could occur in the GGT subcommittee in this and future biennia. The Long-Range Planning subcommittee will relinquish a certain amount of oversight for the LRBP budget if the legislature approves the appropriation in the general appropriations act. If this appropriation remains in the general appropriations act, the LRP will need to be vigilant in tracking the approval of the appropriation.

For more information concerning this general fund transfer, see the issue following DP 413 in the Architecture and Engineering Program of the Department of Administration, appearing in Section A of the LFD Legislative Budget Analysis, Volume 3.

Capitol Land Grant Revenue Funding

Capitol land grant revenue, derived from trust lands designated in the Enabling Act for the state capitol complex, has been used in the past as a source of LRBP funding. In recent biennia, the fund has been used with increasing importance as a vehicle to fund the capitol complex maintenance activities of the General Services Division. LRBP project appropriations from the fund are typically provided as a last priority, and project funding often does not materialize.

The executive recommendation includes one appropriation from the capital land grant fund. The Enterprise System Services Center is expected to be constructed on land outside of the capitol campus proper, which may require significant site development, including the installation of utility services. A \$4 million appropriation would fund site development and some construction for the Enterprise System Services Center.

Figure 4 shows the fund balance for the capital land grant fund. Note that after summing the beginning fund balance, interest and earnings, and statutorily appropriated debt service, the balance available for capitol projects is \$2.8 million. Consequently, the recommendation to expend \$4 million in the 2009 biennium will create a negative ending fund balance equal to approximately \$1.2 million.

Capital Land Grant Fund (05008)		
Fund Balance Projection 2009 Biennium		
Beginning Fund Balance-(7/1/2006)	\$1,459,692	
Estimated Revenue - FY 2007	1,072,000	
Total Funds 2007		2,531,692
Expenditures/Appropriations-FY 2007		
Debt Service - 2003G	417,394	
Debt Service - Justice Building	70,236	
General Services Capital Complex Maintenance	(500,000)	
Capital Land Acquisition	(600,000)	
Capital Annex Feasibility Study	(500,000)	
Total Expenditures		(\$1,112,370)
Estimated Beginning Fund Balance-(7/1/2007)		\$1,419,322
Revenue Projections ¹		
2008 Interest & Earnings	1,157,292	
2009 Interest & Earnings	1,217,027	
2009 Biennium Revenues		2,374,319
Expenditures		
Debt Service - 2003G	(828,236)	
Debt Service - Justice Building	(140,565)	
Total Expenditures		(968,801)
Balance Available for Capital Projects		2,824,840
Enterprise System Services Centers ²		(4,000,000)
Estimated Ending Fund Balance - (6/30/2009)		(\$1,175,160)

¹ Based on RTIC revenue estimates

² Based on executive budget proposal

Figure 4

**LFD
ISSUE**

Negative Ending Fund Balance in Capital Land Grant Fund: After the appropriation of \$4 million for the Enterprise System Services Center, the capital land grant fund (CLG) will have an estimated negative ending fund balance of \$1.2 million. The Montana Constitution states that “appropriations shall not exceed anticipated revenue”. The Long-Range Planning subcommittee may wish to consider the following actions:

- The Long-Range Planning Subcommittee (LRP) could eliminate the CLG appropriation of \$4 million
- The LRP could reduce the Enterprise Systems Services Center appropriation to the available amount
- The LRP could make the appropriation contingent on available funds

**LFD
COMMENT**

Transfer Contingency: The FY 2009 transfer of one-time only general fund monies will be contingent on the size of the fund balance in the general fund. The executive budget proposal did not include detail on the contingency of the transfers. In relation to the transfer, the executive budget simply stated that the LRBP transfer would be \$50.875 million in FY 2008 and \$50.875 million in FY 2009. The executive budget also stated that the entire transfer of \$15.0 million for Access Montana would occur in FY 2009, but made no mention of a contingency.

Information obtained during the analysis of the LRBP budget led to an understanding that the FY 2009 one-time only transfers will be contingent on an ending fund balance in the general fund of at least \$100 million, after the transfers. However, no other pertinent information was provided to the Legislative Fiscal Division (LFD). Currently, the LFD has no information on how or when the calculations of the general fund ending fund balance will occur or how the transfers would be reduced. For example, if the general fund balance is projected to be \$90 million, will the transfers be eliminated totally or will they be adjusted by some pro-rata percentage? The lack of specificity affects the ability of the LFD to provide a thorough analysis of the program. If state revenues do not come in as anticipated, both programs could face a reduction of transfers. Furthermore, the transfers will necessarily be delayed until a time near the end of FY 2009.

In the LRBP, transfer reductions could cause appropriations to exceed available funds, which is in direct violation of the Constitution. Consequently, the uncertainty of available funds requires greater attention to the priority designation of LRBP projects. No information has been provided concerning how appropriation reductions will occur, and there is no information that suggests that the legislature will retain oversight of appropriation reductions. The Long-Range Planning subcommittee may wish to recommend approaches to ensure legislative participation and oversight in the process.

STATE BUILDING ENERGY CONSERVATION

PROGRAM DESCRIPTION

The State Building Energy Conservation Program (SBEC), administered by the Department of Environmental Quality (DEQ), was established by the 1989 Legislature to reduce operating costs of state facilities by identifying and funding cost-effective energy efficiency improvement projects. Statutory authority is found in Title 90, Chapter 4, part 6, MCA. Energy efficiency improvements include projects such as:

- Replacing old, inefficient boilers
- Upgrading inefficient lighting
- Increasing ventilation system efficiency
- Insulating buildings
- Providing more effective temperature controls
- Upgrading water conservation systems

Until FY 2004, the definitions for Title 90, MCA, allowed only energy conservation projects to be included in the SBEC program. In 2003, the Fifty-eighth Legislature amended 90-4-602, MCA, to define energy cost savings as “savings in utility costs to a state agency”. Consequently, water conservation projects can now be funded through the program.

Through the SBEC program, the state issues general obligation (G.O.) bonds, uses the bond proceeds to pay for energy efficiency improvements, and then uses the resulting energy cost savings to pay the debt service on the bonds. The projects are designed so that the cost savings exceed the bond debt service payments. Excess savings are transferred to the Long-Range Building Program (LRBP). To date, the state has appropriated a total of \$4.4 million in oil overcharge funds and \$14.8 million in G.O. bond proceeds to fund the projects. G.O. bonds may have a life no longer than the expected life of the improvements. Program requirements ensure that conservation measures have a service life of at least 15 years. However, energy savings are expected through the life of the project.

State Building Energy Conservation Program Executive Recommendation - 2009 Biennium	
Agency/Project Location	Project
Department of Corrections Montana State Prison - Deer Lodge	Renewable energy systems at the dairy and laundry
Department of Public Health and Human Services Montana State Hospital - Warm Springs	Boiler improvements at Xanthopoulos Building Geothermal Utilization on the Montana State Hospital campus
Montana Veterans' Home - Columbia Falls	Energy efficiency features for HVAC system
Montana School for the Deaf and Blind Montana School for the Deaf and Blind - Great Falls	Boiler / chiller upgrades and improvements
Montana University System MSU - Great Falls COT - Great Falls	Energy efficiency features in new construction
UofM - Helena COT - Helena	Energy efficiency features in new construction
UofM Dillion - Dillion	Energy and water conservation on auxiliary buildings
MSU - Billings COT - Billings	Energy efficiency features in new construction
UofM - Montana Tech - Butte	Utilization of geothermal resources at mining and geology building
UofM Missoula - Missoula	Improvements to heating, ventilation and air conditioning (HVAC) system at music building

Figure 5

EXECUTIVE RECOMMENDATION

The executive proposal for the SBEC Program in the 2009 biennium calls for state Board of Examiners to issue up to \$6.0 million in G.O. bonds for the purpose of funding energy conservation projects. The SBEC bill, typically designated HB 12, will also include statutory changes to permit projects that may save money, but not energy, to be included in the program. Figure 5 is a preliminary list of projects identified by the executive for the SBEC program for FY 2008 and 2009.

FUNDING

The authority to issue G.O. bonds to finance the projects listed in Figure 5, as well as yet to be identified projects, will be requested in SBEC bill. The savings in energy costs that result from the projects are used to cover the cost of the debt service and program administration. Any remaining funds are swept into the Long-Range Building program to fund other state building maintenance projects. Consequently, no general funds are used in support of the program.

The first issuance of bonds for the SBEC occurred in 1993. The 1993 issue of \$1.5 million, a 10-year issue, reached maturity in late FY 2004. The Board of Investments has made seven additional bond issues to provide SBEC program funding. Three SBEC issues have reached maturity and the final debt service payment of the fourth issue, 1998E, will be paid in FY 2008. At the beginning of FY 2007, total issuance of bonded debt for the program is \$14.8 million. Figure 6 includes the current annual debt service of bonds that have been issued through FY 2006 and estimated debt service obligations for the issuance of the \$6.0 million of bonds recommended in the executive budget.

The current debt service obligation of the SBEC and an estimate of new debt service resulting from the recommendation of \$6.0 million in new debt are shown in Figure 6. Half of the bonds are expected to be issued in each fiscal year of the biennium. The new debt service expense is expected to begin in FY 2009. The issuance schedule of the bonds could vary and estimated rates of interest could change. Assumptions used to derive the debt service schedule above are as follows:

- \$3,000,000 in bonds will be issued in FY 2008
- \$3,000,000 in bonds will be issued in FY 2009
- Bonds will mature in 15 years
- The interest rate for 15 year bonds will be 5.0 percent
- The first debt service payment will occur in FY 2009
- Payments will continue through 2025

It is important to recognize that these debt service payments are estimates. If interest rates and/or bond issuance timelines change, these payments may change as a result. SBEC debt service payments will be made from the statutory appropriation for debt service.

NOTE:

Because these are G.O. bonds, they constitute a state debt and require a two-thirds vote of the members of each house of the legislature.

SBEC Debt Service Obligation			
New Debt Service - 2009 Biennium			
FY	Current SBEC Debt Service	Total New SBEC Debt Service	Total Annual SBEC Debt Service
2008	\$1,086,359		\$1,086,359
2009	936,649	284,686	1,221,334
2010	939,454	569,371	1,508,825
2011	935,675	569,371	1,505,046
2012	790,716	569,371	1,360,087
2013	788,380	569,371	1,357,751
2014	785,363	569,371	1,354,734
2015	643,275	569,371	1,212,646
2016	642,225	569,371	1,211,596
2017	346,025	569,371	915,396
2018	345,225	569,371	914,596
2019	349,025	569,371	918,396
2020	346,635	569,371	916,006
2021	348,520	569,371	917,891
2022	344,520	569,371	913,891
2023		569,371	569,371
2024		450,752	450,752
2025		166,067	166,067
Total	<u>\$9,628,045</u>	<u>\$8,872,705</u>	<u>\$18,500,750</u>

Figure 6

TREASURE STATE ENDOWMENT PROGRAM

PROGRAM DESCRIPTION

The Treasure State Endowment Program (TSEP) is a state infrastructure-financing program approved by Montana voters with the passage of Legislative Referendum 110 in June 1992. Grant funding for the program is derived from the investment earnings of the Treasure State Endowment trust. According to 90-6-702, MCA, the purpose of TSEP is to assist local governments in funding infrastructure projects that will:

- Create jobs for Montana residents
- Promote economic growth in Montana by helping to finance the necessary infrastructure
- Encourage local public facility improvements
- Create a partnership between the state and local governments to make necessary public projects affordable
- Support long-term, stable economic growth in Montana
- Protect future generations from undue fiscal burdens caused by financing necessary public works
- Coordinate and improve infrastructure financing by federal, state, local government, and private sources
- Enhance the quality of life and protect the health, safety, and welfare of Montana citizens

Infrastructure projects include drinking water systems, wastewater treatment facilities, sanitary sewer or storm sewer systems, solid waste disposal and separation systems, and bridges.

Eligible applicants include cities, towns, counties, tribal governments, consolidated local governments, county or multi-county water, sewer or solid waste districts, and other authorities as defined in 75-6-304, MCA. TSEP applications are submitted to the Department of Commerce (DOC) on a biennial basis where they are evaluated according to seven statutory priorities. The seven statutory priorities focus on projects that:

- Solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards
- Reflect greater need for financial assistance than other projects
- Incorporate appropriate, cost-effective technical design and provide thorough, long-term solutions to community public facility needs
- Reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources
- Enable local governments to obtain funds from sources other than TSEP
- Provide long-term, full-time job opportunities for Montanans, provide public facilities necessary for the expansion of a business that has a high potential for financial success, or maintain the tax base or encourage expansion of the tax base
- Are high local priorities and have strong community support

The Department of Commerce administers TSEP and makes recommendations for grant awards to the executive. The executive makes funding recommendations to the Montana legislature. The legislature makes the final decisions on the award of TSEP funds. Grants have been the primary use of TSEP funding awarded since program inception. Prior to FY 2006, TSEP loans were available to qualified applicants. However, only eight loans were authorized by the legislature in the first three funding cycles because of the high interest rates associated with the loans. None of the successful applicants opted to secure a TSEP loan. At the request of DOC, the Fifty-ninth Legislature eliminated the TSEP loan program. Figure 7 shows the history of TSEP awards made for the 1995 through 2007 biennia.

Treasure State Endowment Program Grant and Loan Awards by Biennium				
Biennium	Number of Projects		Grant Awarded	Loan Awards
	Approved & Funded	Grants	Loans	
1995	20	4	\$3,966,000	\$168,000
1997	15	0	4,991,000	
1999	22	4	9,111,000	1,905,000
2001	28	0	11,432,000	
2003	31	0	13,672,000	
2005	40	0	15,653,000	
2007	40	0	15,968,000	

Figure 7

EXECUTIVE RECOMMENDATION

Figure 8 provides a list of the executive TSEP recommendations for the 2009 biennium. The Department of Commerce received 57 applications for TSEP grants totaling \$33.9 million for the 2009 biennium. The executive budget recommends appropriation of all the estimated TSEP trust earnings for projects and administration, which the executive budget estimates at \$18.5 million in the 2009 biennium. Total appropriations included in the TSEP projects bill, typically designated HB 11, are recommended at \$18.1 million. Trust interest remaining after the costs of administration of the grant program, pre-engineering grants, and emergency grants are expected to fund the first 31 projects shown in Figure 8. The projects in Figure 8 are listed in order of priority, with several projects earning a tied priority ranking. The TSEP bill typically includes the authorization of three projects whose funding would exceed the biennial interest projections and dependant on higher than expected interest earnings.

Treasure State Endowment Grants (TSEP) 2009 Biennium					
Rank	Applicant	Project Type	Grant Requested	Grant Recommended	Cumulative Total
1	Lewis & Clark County for Woodlawn Park Addition	Water	\$596,420	\$596,420	\$596,420
2	Bainville, Town of	Wastewater	715,000	715,000	1,311,420
3	Madison County	Bridge	370,100	370,100	1,681,520
4	Sweet Grass County	Bridge	151,493	151,493	1,833,013
5	Powell County	Bridge	263,074	263,074	2,096,087
6	Circle, Town of	Wastewater	750,000	750,000	2,846,087
7	Harlem, City of	Water	750,000	750,000	3,596,087
8	Jordan, Town of	Wastewater	700,000	700,000	4,296,087
9	Thompson Falls, City of	Water	363,000	363,000	4,659,087
10	Twin Bridges, Town of	Wastewater	750,000	750,000	5,409,087
11	Seeley Lake – Missoula County Water District	Water	750,000	750,000	6,159,087
12	Fergus County	Bridge	238,362	238,362	6,397,449
13	Sunny Meadows Missoula Co. Water & Sewer District	Water	325,000	325,000	6,722,449
14	Tri County Water District	Water	313,500	313,500	7,035,949
15	Blaine County	Bridge	617,017	617,017	7,652,966
16	Loma County Water & Sewer District	Water	750,000	750,000	8,402,966
17	Ekalaka, Town of	Water/Wastewater	706,369	706,369	9,109,335
17	Stillwater County	Bridge	407,500	407,500	9,516,835
19	Sheridan, Town of	Wastewater	750,000	750,000	10,266,835
20	Carter-Chouteau County Water & Sewer District	Water	750,000	750,000	11,016,835
21	Bigfork County Water/Sewer District	Wastewater	750,000	750,000	11,766,835
22	Dayton/Lake County Water & Sewer District	Wastewater	750,000	750,000	12,516,835
23	Judith Basin County	Bridge	192,215	192,215	12,709,050
23	Pinesdale, Town of	Water	750,000	750,000	13,459,050
25	Power-Teton County Water & Sewer District	Water	604,286	604,286	14,063,336
26	Superior, Town of	Water	600,000	600,000	14,663,336
27	RAE Subdivision County Water and Sewer District No. 313	Water	750,000	750,000	15,413,336
28	Jefferson County	Bridge	295,800	295,800	15,709,136
29	Fort Benton, City of	Stormwater	750,000	750,000	16,459,136
30	Laurel, City of	Wastewater	750,000	750,000	17,209,136
31	Yellowstone County	Bridge	97,079	97,079	17,306,215
Projects below this line were recommended only with available funding					
32	Neihart, Town of	Water	223,000	223,000	17,529,215
33	Three Forks, City of	Wastewater	750,000	750,000	18,279,215
34	Manhattan, Town of	Water	750,000	750,000	19,029,215
35	Cut Bank, City of	Water	550,000	550,000	19,579,215
Sub-total			<u>\$19,579,215</u>	<u>\$19,579,215</u>	

Figure 8
(continued on next page)

Treasure State Endowment Grants (TSEP) 2009 Biennium					
Rank	Applicant	Project Type	Grant Requested	Grant Recommended	Cumulative Total
		Balance:	\$19,579,215	\$19,579,215	
36	Whitehall, Town of	Wastewater	750,000	750,000	\$20,329,215
37	Crow Tribe for Crow Agency	Wastewater	750,000	750,000	21,079,215
38	Big Sandy, Town of	Wastewater	750,000	750,000	21,829,215
39	Fairfield, Town of	Wastewater	750,000	750,000	22,579,215
39	Hamilton, City of	Wastewater	750,000	750,000	23,329,215
41	Gallatin County for Hebgen Lake	Wastewater	750,000	750,000	24,079,215
42	Shelby, City of	Water	750,000	750,000	24,829,215
42	Whitefish, City of	Wastewater	750,000	750,000	25,579,215
44	Panoramic Heights/Mountain Riverheights County Water Dist.	Water	191,500	191,500	25,770,715
45	Custer County	Bridge	63,750	63,750	25,834,465
46	Brady County Water District	Wastewater	750,000	750,000	26,584,465
47	Elk Meadows Ranchettes Water District	Water	410,000	410,000	26,994,465
48	Polson, City of	Water	750,000	750,000	27,744,465
49	Darby, Town of	Water	750,000	750,000	28,494,465
50	Goodan Keil County Water District	Water	532,250	532,250	29,026,715
51	Butte-Silver Bow	Water	750,000	750,000	29,776,715
52	Columbia Falls, City of	Wastewater	750,000	750,000	30,526,715
53	Mineral County/Saltse Water & Sewer District	Wastewater	750,000	390,000	30,916,715
53	North Valley County Water & Sewer District	Water	750,000	750,000	31,666,715
55	Red Lodge, City of	Water	750,000	750,000	32,416,715
56	Black Eagle Cascade County Water & Sewer District	Water	365,000	365,000	32,781,715
Projects below this line were not recommended					
57	Missoula County for Lolo	Wastewater	750,000	0	32,781,715
Total TSEP Grants Requested/Recommended			<u>\$33,891,715</u>	<u>\$32,781,715</u>	

Figure 8
(continued from previous page)

FUNDING

In July 1993, \$10.0 million was transferred from the coal severance tax permanent trust fund to the Treasure State Endowment Trust Fund (hereto referred to as “the trust”). To provide “start-up” funds for the grants program, the 1993 Legislature authorized a \$4.1 million loan from the Board of Investments (BOI), which was completely repaid in FY 2001. Between FY 1999 and FY 2003, the trust received 37.5 percent of the coal severance tax revenues. From FY 2003 to FY 2016, the trust will receive 25 percent of the tax revenues, as required by 17-5-703, MCA. Funding for TSEP grants comes from trust investment earnings, which are deposited into a TSEP income fund. The funds are then transferred to a state special revenue account and are expended on administration and projects.

In the 1999 session, the TSEP grants were also slated to receive \$4.6 million in funding in the 2001 biennium and \$1.2 million in subsequent biennia from an allocation of the “coal producer’s license tax” enacted in HB 260 (1999). This funding mechanism disappeared when HB 260 was declared unconstitutional. In the special session that followed (May 2001), the legislature replaced some of that funding with a \$3.0 million general fund appropriation for the 2001 biennium.

Treasure State Endowment Fund (02270) Fund Balance Projection 2009 Biennium		
Estimated Beginning Fund Balance (7/01/2007)		\$635,666
Revenue Projections ¹		
2008 Investment Earnings	\$8,950,000	
2009 Investment Earnings	<u>9,489,000</u>	
2009 Biennium Revenues		18,439,000
Proposed Expenditures ²		
Administration - Commerce	(1,050,841)	
Administration - DNRC	(56,000)	
Emergency Grants	(100,000)	
Water/Sewer Pre-engineering - SA	<u>(600,000)</u>	
Total Expenditures		(1,806,841)
Balance Available for Grants		\$17,267,825
Proposed Grants ²		<u>(17,306,215)</u>
Estimated Ending Fund Balance - (6/30/2009)		<u>(\$38,390)</u>
¹ Based on RTIC estimates		
² Based on executive budget proposal		

Figure 9

appropriation for pre-engineering. An additional appropriation of \$56,000 is made to DNRC for assistance in administration of TSEP loan program, eliminated in HB 11 in the 2005 session (for more information on this issue, see the LFD issue below)

Estimates adopted by the Revenue and Transportation Interim Committee (RTIC) show that funds will not adequately fund the number of grants (31) recommended in the executive budget. If the legislature maintains the priority listing provided in the executive budget, full funding will be available for the first 30 projects shown in Figure 8.

**LFD
ISSUE**

DNRC Appropriations: The Fifty-ninth legislature amended section 90-6-703, MCA to eliminate the TSEP loan program. Previously, loans granted under the TSEP program were issued by the Department of Natural Resources and Conservation (DNRC) in conjunction with loans issued for the Renewable Resource Grants and Loan Program. Since the inception of the TSEP, DNRC has been appropriated TSEP interest earnings to cover costs associated with loan issuance and administration. As shown in the fund balance projection table (Figure 9), the executive budget recommends a \$56,000 appropriation to the DNRC for loan administration for the 2009 biennium. Between the 1995 and 2007 biennia, DNRC received appropriations through the general appropriations act (HB 2), totaling almost \$400,000 in TSEP funds for administration of TSEP loans. Since the elimination of the TSEP loan program, there is no longer a financial justification for the transfer of TSEP funds in support of the DNRC loan program.

Options:

- 1) The LRP sub-committee could suggest removing the recommended general appropriation act appropriation of TSEP interest earnings for DNRC administration of the TSEP loan program.
- 2) The LRP sub-committee could suggest the continuation of the recommended general appropriation act appropriation of TSEP interest earnings for the DNRC loan administration.

Note: Elimination of the DNRC appropriation for the Administrative costs associated with the non-existent loan program would also eliminate the negative ending fund balance in the TSEP fund.

Figure 9 shows the projected grant funds available from the treasure state endowment state special revenue account for the 2009 biennium under present law assumptions. Total new revenue in this account is estimated at \$18.4 million for the biennium. The TSEP account will begin the biennium with a fund balance of \$635,666. The fund balance consists of unexpended administrative, emergency grant, and pre-engineering grant funds. The largest portion of the beginning fund balance is the result of the elimination of one project, the Lockwood Water and Sewer District project, authorized in the 2001 session for \$500,000. The legislature will be asked to reconsider and remove the authorization from an earlier TSEP bill.

Expenditures amount to \$1.8 million and include \$1.1 million in administrative costs, \$100,000 for the emergency grants program, and a \$600,000

TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM

PROGRAM DESCRIPTION

The 1999 Legislature created the treasure state endowment regional water system fund as a new sub-trust within the coal tax permanent trust. The Treasure State Endowment Program Regional Water System (TSEPRW), established in 90-6-715, MCA, was created to:

“...finance regional drinking water systems that supply water to large geographical areas and serve multiple local governments, such as projects in north central Montana, from the waters of the Tiber reservoir, that will provide water for domestic use, industrial use, and stock water for communities and rural residences that lie south of the Canadian border, west of Havre, north of Dutton, and east of Cut Bank and in northeastern Montana, from the waters of the Missouri River, that will provide water for domestic use, industrial use, and stock water for communities and rural residences that lie south of the Canadian border, west of the North Dakota border, north of the Missouri River, and east of range 39.”

Two projects that have received federal authorization and now qualify for a match of federal funding are the Fort Peck Indian Reservation/Dry Prairie Regional Water System (Fort Peck/Dry Prairie) and the Rocky Boy's Indian Reservation/North Central Montana Regional Water System (Rocky Boy's/NC Montana). The federal government estimates total project costs for Fort Peck/Dry Prairie at approximately \$252 million and the Rocky Boy's/NC Montana at approximately \$286 million. The costs include a local match of almost \$20 million for the Dry Prairie project and over \$31 million for the NC Montana project. The federal government match for each regional water project local dollar is between \$12 and \$20. The local match is split evenly between the state and the local regional water authority, unless hardship is proved. In cases of hardship, the split is 75 percent for the state and 25 percent for the regional water authority.

A third project, the Central Montana Regional Municipal Water System (Musselshell Valley), has not qualified for federal funding, but it has received program approval from the state. The Musselshell Valley project received status as a regional water authority in early FY 2006. The system would serve over a dozen communities along the Judith and Lower Musselshell Rivers, at a total estimated cost of \$45 million.

A fourth project, the Dry-Redwater Regional Water System, would bring water to portions of Garfield, McCone, Richland and Dawson counties. The Dry-Redwater Regional Water Authority was established in FY 2006. A project feasibility study is expected to be completed in FY 2007. Preliminary estimates of the cost of this system, including a surface water treatment plant and long distance water delivery system, are expected to exceed \$70 million.

The Fifty-eighth Legislature transferred administration of the TSEPRW program from the Department of Commerce to the DNRC. Administrative activities and actual construction of the TSEPRW projects began in the 2005 biennium. TSEPRW construction funds appropriated in the 2003 session provided the first match to federal dollars for regional water projects. The costs of program administration are a recommended appropriation included in the general appropriations act, HB 2.

EXECUTIVE RECOMMENDATIONS

The executive budget did not contain a recommendation for funding of TSEPRW project costs. DNRC administrative costs of \$1.3 million are recommended in the general appropriations act, HB 2.

FUNDING

Since July 1, 1999, 12.5 percent of the coal severance tax revenues have flowed into the TSEPRW trust fund. The current principal balance in the TSEPRWS trust is \$35 million and is expected to grow to \$44 million over the 2009 biennium. The interest earned from the fund is deposited into the account authorized in Title 90, Section 6, part 7, MCA, to provide a match for federal and local monies for the purpose of developing large water systems.

Figure 10 shows the fund balance calculation for the TSEPRW account for the 2009 biennium. The 2003 Legislature approved use of the interest earnings to fund administrative expenses for the program. The executive recommendation includes an administrative appropriation of \$1.3 million for the 2009 biennium. All remaining funds, \$6.7 million, are available for appropriation in the TSEP bill for funding regional water construction projects.

TSEP Regional Water System Fund (02015)	
Fund Balance Projection 2009 Biennium	
Estimated Beginning Fund Balance (7/1/2007)	\$3,555,310
Revenue Projections ¹	
2008 Investment Earnings	\$2,082,000
2009 Investment Earnings	<u>2,348,000</u>
2009 Biennium Revenues	<u>4,430,000</u>
Proposed Expenditures ²	
Administration - DNRC	<u>(1,298,608)</u>
Total Funds Available For Projects	<u>\$6,686,702</u>
¹ Based on RTIC estimates	
² Based on executive budget proposal	

Figure 10

LFD ISSUE

Omitted Recommendation: For the second time in as many biennia, the executive budget recommendation did not include an appropriation for TSEPRW project funding. The Legislative Fiscal Division assumes that the lack of an appropriation for project funding was an error of omission, and not that the executive budget office made a conscious decision to deny funding for construction costs. The 60th Legislature will be required to add this appropriation to the budget before any construction can take place in the 2009 biennium and will create the appearance that the legislative budget exceeds the executive request.

LFD COMMENT

Bond Issue Authority: The 59th Legislature approved HB 748, which provided the authority for the DNRC to issue up to \$5 million for TSEPRW projects. Bond proceeds could have been used to fund the project costs during the 2007 biennium. To date, no bonds have been issued for TSEPRW projects, and representatives at DNRC believe that no bonds will be issued for project costs in FY 2007. Because of the ever increasing costs of large regional water projects, DNRC would like to retain the bond authority for future construction costs of the regional water program. The Long-Range Planning subcommittee may wish to consider the following actions:

- Allow DNRC to retain the bond authority
- Eliminate the authorization for the issuance of bonds provided in HB 748

RENEWABLE RESOURCE GRANTS AND LOAN PROGRAM

PROGRAM DESCRIPTION

Resource Indemnity Trust (RIT) investment earnings are a major source of revenue for several natural resource agencies and programs, including: 1) the Renewable Resource Grants and Loan Program (RRGL); and 2) the Reclamation and Development Grants Program (RDGP). The Board of Investments invests funds deposited in the RIT and some of the investment earnings are used to fund the RRGL and RDGP. For more detailed information on the allocation and expenditure of other RIGWA proceeds and RIT interest earnings, see the Department of Natural Resources and Conservation (DNRC) summary in Section C of the Legislative Fiscal Division Budget Analysis, Volume 5.

The Renewable Resource Grants and Loan (RRGL) program was created by the 1993 Legislature. This program combines the former Renewable Resource Development Program, established in 1975, and the Water Development Program, established in 1981. As outlined under Title 85, Chapter 1, part 6, MCA, the purpose of the RRGL is to fund projects that “enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources.”

The DNRC administers the RRGL program, which involves a biennial application process. DNRC and a technical review team initially evaluate each application for economic and technical feasibility, as well as to ensure that proposed projects are located in Montana. Qualifying applications are then examined according to six criteria:

- Financial feasibility
- Adverse environmental impact
- Technical merit
- Public benefit
- Need
- Urgency

DNRC submits a list of funding recommendations to the Governor, who reviews the list and submits recommendations to the legislature. Funding for projects comes in the form of grants and/or loans. Eligible applicants include, but are not limited to:

- A department, agency, board, commission, or other division of state government
- A city, county, or other political subdivision or local government body of the state
- A tribal government

The legislature has final approval for the awarding of RRGL grants and loans.

EXECUTIVE RECOMMENDATION

RRGL Grants

Figure 11 shows a priority listing of the RRGL grants recommended by the executive for the 2009 biennium. DNRC received a total of 80 applications. The RRGL grant bill, typically designated HB 6, will include the entire list of applications that are recommended for funding, along with three projects that do not have the recommendation of DNRC. The executive recommendation would provide an appropriation of \$5.0 million, or enough to fund the first 51 project applications. The executive recommendation also includes \$100,000 to fund the DNRC emergency grant program, \$400,000 for project planning grants, \$300,000 for irrigation development grants, and \$100,000 for a statewide comprehensive irrigation study. Total appropriations for the RRGL program are \$5.9 million.

Renewable Resource Grants (RRGL) 2009 Biennium					
Rank	Applicant	Project Type	Grant Requested	Grant Recommended	Cumulative Total
1	Green Mountain Conservation District				
	Crow Creek Restoration Project	Watershed	\$70,599	\$70,599	\$70,599
2	Twin Bridges, Town of				
	Twin Bridges Wastewater System Improvements	Wastewater	100,000	100,000	170,599
3	Fort Peck Tribes				
	Fort Peck D-4 Drain Water Conservation Improvements	Irrigation	100,000	100,000	270,599
4	North Powell Conservation District				
	Blackfoot Drought and Water Conservation Project	Watershed	84,347	84,347	354,946
5	Bainville, Town of				
	Bainville Wastewater System Improvements	Wastewater	100,000	100,000	454,946
6	Petrolia Irrigation District				
	Petrolia Irrigation Rehabilitation Project	Irrigation	100,000	100,000	554,946
7	Montana Department of Natural Resources and Conservation				
	*Ackley Lake Dam Rehabilitation	Dam	100,000	100,000	654,946
8	Cut Bank, City of				
	Cut Bank Water System Improvements	Water	100,000	100,000	754,946
9	Whitehall, Town of				
	Whitehall Wastewater System Improvements	Wastewater	100,000	100,000	854,946
10	Montana Department of Natural Resources and Conservation				
	*East Fork Siphon Replacement and Main Canal Lining Project	Irrigation	100,000	100,000	954,946
11	Loma County Water and Sewer District				
	Loma Water System Improvements	Water	100,000	100,000	1,054,946
12	Panoramic Mountain River Heights County Water District				
	Panoramic Mountain River Heights Water System Improvements	Water	100,000	100,000	1,154,946
13	Montana Department of Natural Resources and Conservation				
	*Smith Creek Canal Seepage Abatement and Rehabilitation Project	Irrigation	100,000	100,000	1,254,946
14	Goodan-Keil County Water District				
	Goodan- Keil Water Improvement Project	Water	100,000	100,000	1,354,946
15	Montana Department of Natural Resources and Conservation				
	Middle Creek Dam Automated Instrumentation	Dam	100,000	100,000	1,454,946
16	Polson, City of				
	Polson Water System Improvements	Water	100,000	100,000	1,554,946
17	Hill County				
	Beaver Creek Dam Seepage Control Berm	Dam	100,000	100,000	1,654,946
18	Gallatin County, Hebgen Lake Estates RID 322				
	Hebgen Lake Wastewater System Improvements	Wastewater	100,000	100,000	1,754,946
19	Three Forks, City of				
	Three Forks Wastewater System Improvements	Wastewater	100,000	100,000	1,854,946
20	Mineral County Saltese Water and Sewer District				
	Saltese Wastewater System Improvements	Wastewater	100,000	100,000	1,954,946
21	Carbon Conservation District				
	Phase I Hydrogeology and Water Balance of the East/West Bench Aq	Groundwater	100,000	100,000	2,054,946
22	Fergus County Conservation District				
	Upper and Lower Carter Pond Dam Reconstruction	Dam	100,000	100,000	2,154,946
23	Brady County Water and Sewer District				
	Brady Wastewater System Improvements	Wastewater	100,000	100,000	2,254,946
24	Beaverhead Conservation District				
	Big Hole Ditch Improvement Project	Irrigation	100,000	100,000	2,354,946
25	Superior, Town of				
	Superior Water System Improvements	Water	100,000	100,000	2,454,946
26	Sunny Meadows Missoula County Water and Sewer District				
	Sunny Meadows Water System Improvements	Water	100,000	100,000	2,554,946
27	Tri County Water and Sewer District				
	Tri County Water System Improvements	Water	100,000	100,000	2,654,946
28	Philipsburg, Town of				
	Philipsburg Wastewater System Improvements	Wastewater	100,000	100,000	2,754,946
		Sub-Total	\$2,754,946	\$2,754,946	

Figure 11 (continued on next page)

Renewable Resource Grants (RRGL) 2009 Biennium					
Rank	Applicant	Project Type	Grant Requested	Grant Recommended	Cumulative Total
		Balance:	\$2,754,946	\$2,754,946	
29	Fort Peck Tribes				
	58 Main Structure Replacement for Water Management	Irrigation	100,000	100,000	2,854,946
30	Sanders County				
	Eliminating Failed Septic Systems in Sanders County	Groundwater	100,000	100,000	2,954,946
31	Malta Irrigation District				
	Dodson North Canal Regulating Reservoir	Irrigation	100,000	100,000	3,054,946
32	Red Lodge, City of				
	Red Lodge Water System Improvements	Water	100,000	100,000	3,154,946
33	Elk Meadows Ranchettes County Water District				
	Elk Meadows Water System Improvements	Water	100,000	100,000	3,254,946
34	Rae Water and Sewer District				
	Rae Water System Improvements	Water	100,000	100,000	3,354,946
35	Stillwater Conservation District				
	Stillwater-Rosebud Watershed, Surface Water/Groundwater	Groundwater	100,000	100,000	3,454,946
36	East Bench Irrigation District				
	East Bench Irrigation District Canal Lining	Irrigation	100,000	100,000	3,554,946
37	Dayton Lake County Water and Sewer District				
	Dayton Wastewater System Improvements	Wastewater	100,000	100,000	3,654,946
38	Milk River Irrigation Project Joint Board of Control				
	Saint Mary Canal, Halls Coulee Drop 3, Plunge Pool Repair	Irrigation	100,000	100,000	3,754,946
39	Yellowstone Conservation District				
	Modeling Aquifer Response to Urban Sprawl, W. Billings Area	Groundwater	60,000	60,000	3,814,946
40	Ravalli County				
	Improved Resource Protection, Floodplain Hazard Mapping	Floodplain	100,000	100,000	3,914,946
41	North Valley County Water and Sewer District				
	North Valley County Water System Improvements	Water	100,000	100,000	4,014,946
42	Sheridan, Town of				
	Sheridan Wastewater System Improvements	Wastewater	100,000	100,000	4,114,946
43	Neihart, Town of				
	Neihart Water System Improvements	Water	100,000	100,000	4,214,946
44	Greenfields Irrigation District				
	Muddy Creek Wastewater and Erosion Reduction Project	Watershed	100,000	100,000	4,314,946
45	Bynum Teton County Water and Sewer District				
	A New Source of Drinking Water for Bynum, Phase 1	Water	100,000	100,000	4,414,946
46	Whitefish, City of				
	Whitefish Wastewater System Improvements	Wastewater	100,000	100,000	4,514,946
47	Power Teton County Water and Sewer District				
	Power Teton Water System Improvements	Water	100,000	100,000	4,614,946
48	Sidney Water Users Irrigation District				
	Sidney Water Users Increasing Irrigation Efficiency Phase 2	Irrigation	100,000	100,000	4,714,946
49	Jordon, Town of				
	Jordon Wastewater System Improvements	Wastewater	100,000	100,000	4,814,946
50	Beaverhead County				
	Blacktail Deer Creek Flood Mitigation Project	Floodplain	100,000	100,000	4,914,946
51	Seeley Lake Missoula County Water District				
	Seeley Lake Water System Improvements	Water	100,000	100,000	5,014,946
Projects below this line were recommended only with available funding					
52	Manhattan, Town of				
	Manhattan Water System Improvements	Water	100,000	100,000	5,114,946
53	Lewis and Clark County				
	L&C Fairgrounds, Dunbar Area Water System Improvements	Water	100,000	100,000	5,214,946
54	Columbia Falls, City of				
	Columbia Falls Wastewater System Improvements	Wastewater	100,000	100,000	5,314,946
55	Hamilton, City of				
	Hamilton Wastewater System Improvements	Wastewater	<u>100,000</u>	<u>100,000</u>	5,414,946
		Sub-Total	\$5,414,946	\$5,414,946	

Figure 11 (continued on next page)

Renewable Resource Grants (RRGL) 2009 Biennium					
Rank	Applicant	Project Type	Grant Requested	Grant Recommended	Cumulative Total
		Balance:	\$5,414,946	\$5,414,946	
56	Hysham Irrigation District				
	Hysham Irrigation District Infrastructure Improvement	Irrigation	100,000	100,000	5,514,946
57	Shelby, City of				
	Shelby Water System Improvements	Water	100,000	100,000	5,614,946
58	Montana Department of Natural Resources and Conservation				
	Community Tree Planting Grants	Forestry	100,000	100,000	5,714,946
59	Ronan, City of				
	Ronan Wastewater System Improvements	Wastewater	100,000	100,000	5,814,946
60	Pondera County Conservation District				
	Marias River Watershed Baseline Assessment	Watershed	100,000	100,000	5,914,946
61	Sheridan County				
	Raymond Dam Rehabilitation	Dam	100,000	100,000	6,014,946
62	Montana Department of Environmental Quality				
	Geothermal Assessment and Outreach Partnership	Energy	99,963	99,963	6,114,909
63	Thompson Falls, City of				
	Thompson Falls Water System Improvements	Water	100,000	100,000	6,214,909
64	Missoula County Lolo RSID 901				
	Lolo Wastewater System Improvements, Phase 2	Wastewater	100,000	100,000	6,314,909
65	Chester Irrigation District				
	Chester Irrigation Project: Phase 2, Water Service Contract	Irrigation	100,000	100,000	6,414,909
66	Pinesdale, Town of				
	Pinesdale Water System Improvements	Water	100,000	100,000	6,514,909
67	Ekalaka, Town of				
	Ekalaka Water and Wastewater System Improvements	Water & Wastewater	100,000	100,000	6,614,909
68	Sweet Grass Conservation District				
	West Boulder Point of Diversion Rehabilitation Project	Watershed	44,500	44,500	6,659,409
69	Livingston, City of				
	Glass Pulverizer for the City of Livingston	Solid Waste	100,000	100,000	6,759,409
70	Montana State University				
	Channel Response Assessment for the Upper Blackfoot	Watershed	100,000	100,000	6,859,409
71	Darby, Town of				
	Darby Water System Improvements	Water	100,000	100,000	6,959,409
72	Sunburst, Town of				
	Sunburst Backup Water Supply Wells	Water	99,236	99,236	7,058,645
73	Geyser Judith Basin County Water and Sewer District				
	Geyser Water System Improvements	Water	100,000	100,000	7,158,645
74	Black Eagle Water and Sewer District				
	Black Eagle Water System Improvements	Water	100,000	100,000	7,258,645
75	Glacier County Conservation District				
	Marias River Bridge Road Stabilization	Watershed	100,000	100,000	7,358,645
76	Buffalo Rapids Project, District 2				
	Open Lateral Conversion to Pipeline	Irrigation	100,000	100,000	7,458,645
77	Buffalo Rapids Project, District 1				
	Open Lateral 34.5 Conversion to Pipeline	Irrigation	100,000	100,000	7,558,645
Projects below this line were not recommended					
	Deer Lodge Valley Conservation District				
	Up. Clark Fork River Habitat, Water Quality/Restoration Project	Watershed	100,000	0	7,558,645
	Meagher County Conservation District				
	Hydrologic Investigation of the Smith River Watershed	Groundwater	100,000	0	7,558,645
	Sunset Irrigation District				
	*Sunset Irrigat. District Gravity Flow Group Irrigation Pipelines	Irrigation	<u>100,000</u>	<u>0</u>	7,558,645
Total RRGL Grants Requested/Recommended			<u>\$7,858,645</u>	<u>\$7,558,645</u>	
* Projects recommended for RRGL loans.					

Figure 11 (continued from previous page)

FUNDING

Funding for the RRGL program is established in 85-1-604, MCA, with the creation of the renewable resource grant and loan state special revenue account. Deposits to this account are made from three sources including:

- Interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202, MCA (\$2.0 million per fiscal year for the purpose of making grants)
- Excess coal severance tax proceeds allocated by 85-1-603, MCA to the renewable resource loan debt service fund (above debt service requirements as provided in and subject to the conditions of 85-1-619, MCA)
- Fees or charges collected by the department for the servicing of loans, including arrangements for obtaining security interests

Appropriations from the account are authorized in 85-1-604, MCA, and state that appropriations may be made for grants and administrative expenses, including salaries and expenses for personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. Grant associated expenses may be funded before projects. Total administrative expenses recommended in the executive budget proposal are \$2.7 million, but only \$654,150 is administrative expense associated with the RRGL program. The MSU-Northern appropriation is funded with additional allocations of RIT interest that are deposited into the renewable resource state special revenue account. The executive budget recommends \$5.9 million for grants in the 2009 biennium, including \$100,000 for emergency grants, \$400,000 for project planning grants, \$300,000 for irrigation development program grants, and \$100,000 for a comprehensive irrigation report. The estimated fund balance for June 30, 2009 is a negative \$1.1 million. As a result, some appropriations may have to be reduced to maintain a positive ending fund balance.

Renewable Resource State Special Revenue Account (02272)	
Fund Balance Projection 2009 Biennium	
Estimated Beginning Fund Balance (7/1/2007)	\$3,012,450
Revenue Projections ¹	
Resource Indemnity Trust Interest - Grant Allocation	\$4,000,000
Resource Indemnity Trust Interest - MSU Northern	480,000
Resource Indemnity Trust Interest - Additional	449,700
Administrative Fees	<u>16,000</u>
2009 Biennium Revenues	\$4,945,700
RRGL Recommendations ³	
DNRC-(Grant Administration) Centralized Services ²	(54,586)
DNRC-(Grant Administration) Conser. & Res. Devel. Div. ²	(599,564)
Emergency Grants	(100,000)
Project Planning	(400,000)
Irrigation Development	(300,000)
Comprehensive Irrigation Report	(100,000)
Proposed RRGL Grants	<u>(5,014,946)</u>
Total RRGL Recommendations	(6,569,096)
Balance	\$1,389,054
Non-Grant Related Expenditures ²	
MSU-Northern Statutory Appropriation	(480,000)
DNRC-Water Resources Division	(24,130)
DNRC-Flathead Basin Commission	(13,682)
DNRC - Forestry Division	(200,000)
Judiciary-Water Court	<u>(1,775,445)</u>
Total Non-Grant Expenditures	(2,493,257)
Estimated Ending Fund Balance (6/30/2009)	<u>(\$1,104,203)</u>
¹ RTIC recommendations	
² Executive general appropriations act proposal	
³ Executive grant proposal	

Figure 12

LFD ISSUE

Negative Ending Fund Balance in RRGL Account: The RRGL account will have an estimated negative ending fund balance of \$1.1 million at the end of the 2009 biennium. The primary cause of the negative ending fund balance is the over-appropriation of administrative costs in the general appropriation act. There is agreement between executive budget office and the Legislative Fiscal Division concerning the negative ending fund balance in the RRGL account. The legislative budget should be based on the “legislative” estimates, those adopted by the Revenue and Transportation Interim Committee, and the Montana Constitution states that appropriations “shall not exceed anticipated revenue”. The Long-Range Planning subcommittee may wish to consider the following actions:

- The Long-Range Planning Subcommittee (LRP) could reduce the total appropriation to the grant program by \$1.1 million (this action would also reduce the number of grants funded)
- The LRP could recommend elimination of \$1.1 million of administrative appropriations in the general appropriations act, or HB 2.

**LFD
ISSUE**

Unlawful Appropriation of Funds – The legislative legal staff believe that past legislatures have violated statute, 85-1-604, MCA, by using funds in the renewable resource grant (RRGL) account for purposes other than the administration of the grant program and grants. Administration costs for non-grant related appropriations were allowed in the 2007 biennium under a temporary change in statute included in the RRGL grant bill.

In years of funding shortages, the legislature began using the funds in the RRGL account for purposes other than the grant program, and that practice has persisted through time. The original purpose of the account was to fund the costs of RRGL. Examples of the misuse are apparent in the Figure 12. The appropriation of dollars for MSU-Northern, the Judiciary Water court, and others are not allowed under current permanent statute, which says:

- 3) “Appropriations may be made from the renewable resource grant and loan program state special revenue account for:
 - a) Grants for designated projects; and
 - b) Administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of the grant and loan program (85-1-604, MCA).”

The improper account use came to light in the Fifty-ninth Legislature, and actions are underway to remedy the situation in future years. The interim Legislative Finance Committee agreed to sponsor a bill that will change the funding of natural resource program administration and projects in future years. However, the 2009 biennium executive budget continues the practice of unlawful appropriation of RRGL funds. According to representatives of DNRC, the RRGL bill will again contain language to allow the appropriation of grant funds for the administrative functions of other non-grant programs in the 2009 biennium.

**LFD
COMMENT**

Change in Grants: the DNRC has funded emergency grants and project planning grants with RRGL interest earnings, justified on the basis that these activities are a function of the grant program. In the 2009 biennium executive recommendation, RRGL project funds will be used for the costs of an irrigation grant program, \$300,000 and a statewide comprehensive irrigation report, \$100,000.

The irrigation grant program awards grants to private irrigators. This program was funded in the general appropriations act (HB 2) in past years. If approved by the legislature, the \$300,000 appropriation would be used for numerous small grants to individuals, with most successful applicants awarded between \$10,000 and \$15,000. RRGL administrators believe the grants fit the characterization of allowable projects (projects that measurably conserve, develop, manage, or preserve resources), and believe the program could be funded as a project planning grant. The grant award, as recommended in the executive budget, would be awarded to the Conservation and Resource Division (CARDD) of the DNRC.

The statewide comprehensive irrigation report, recommended for an appropriation of \$100,000, would fund an economic analysis of irrigated agriculture in Montana. The study would analyze who and to what extent individuals benefit from irrigation projects in Montana. The appropriation for this study was recommended as a “project planning” type grant. CARDD of the DNRC would receive the recommended appropriation of funds.

Because these types of grants are unusual for the RRGL, the Long-Range Planning subcommittee should expect to be fully informed about the unusual use of grant funds and should also be ready to ascertain if this is an appropriate use of the funds. The subcommittee may wish to request further information from DNRC to establish these projects have been recommended in a manner that bypasses the normal grant award process.

EXECUTIVE RECOMMENDATION

RRGL Loans

A second RRGL bill, typically designated HB 8, will authorize the issuance of coal severance tax bonds to provide for RRGL project loans. Proceeds from the issuance of bonds are used to fund the loans, with loan repayments used to pay the debt service. Loans have differing interest rates based on the borrower's financial situation. The interest payments on some of the bonds are subsidized with earnings from the coal severance tax bond fund. Because these are general obligation bonds, they constitute a state debt that requires a two-thirds vote of the members of each house. Moreover, because money from the coal severance tax bond fund is pledged for debt service payments on the bonds, the RRGL loan/bond bill will also require a three-fourths vote of the members of each house, as directed by the Montana Constitution.

Renewable Resource Loans 2009 Biennium		
Loans-Sponsor/Project	Loan Recommendation	Cumulative Total
Section 1¹		
Group 1 Projects (4.5% or State bond rate, whichever is lower-20 years)		
Montana Department of Natural Resources and Conservation Ackley Lake Dam Rehabilitation	\$200,000	\$200,000
Montana Department of Natural Resources and Conservation East Fork Siphon Replacement and Main Canal Lining Project	400,000	600,000
Montana Department of Natural Resources and Conservation Smith Creek Canal Seepage Abatement and Rehabilitation Project	50,000	650,000
Group 2 Projects (3.0% or State bond rate, whichever is lower-20 years)		
Montana Department of Natural Resources and Conservation Community Refinance Projects	3,000,000	3,650,000
Section 2²		
Group 1 Projects (4.5% or State bond rate, whichever is lower-20 years)		
Mill Creek Irrigation District Mill Lake Dam Rehabilitation	572,000	4,222,000
Montana DNRC Martinsdale Dam Riprap Project	90,000	4,312,000
Total Loan Authorizations:	\$4,312,000	
Additional Loan Authorizations:	2,543,699	
Loan Reserve ³ :	685,570	
Total Bond Request	\$7,541,269	
¹ Section 1 projects meet the provisions of 17-5-702, MCA.		
² Section 2 projects may not complete the requirements needed to obtain the loan funds prior to June 30, 2007		
³ To finance loans in lieu of grants for grants recommended in the RRGL program		
NOTE: Projects are grouped by differences in loan circumstances and interest rates.		

Figure 13

The executive budget recommendation contains a request for loans under the RRGL that total \$3.7 million. The DNRC will request total bond authority of \$7.5 million in the RRGL loan/bond bill. For more information on the lack of consistency in the appropriation and bond authority requests, see the issue on the following page. The details of the executive recommendation for the loan program request include \$650,000 for new loans and \$3.0 million to fund community loans. Additional DNRC recommendations include \$662,000 for projects that may not have completed the requirements to obtain a loan by the deadline of June 30, 2007 and an additional amount of \$685,000 to establish a reserve for the bonds.

The RRGL loan/bond bill would authorize the Board of Investments to issue coal severance tax bonds in the amount of \$7.5 million, which would be appropriated to the Department of Natural Resources for financing the

projects identified in the bill. The DNRC loan recommendations for the 2009 biennium are included in Figure 13. Loan repayments from the loans financed with coal severance tax bonds are used to pay the debt service. Because the loans authorized in the RRGL loan/bond bill are sometimes offered at reduced rates, coal severance tax revenues subsidize these reduced rates. Consequently, less principal is invested in the Treasure State Endowment Fund, the Treasure State Endowment Regional Water System Fund, and the Economic Development Trust. As a result, the trust receives reduced interest earnings.

**LFD
ISSUE**

Lack of Consistency: The executive budget recommendation contains a request for loans under the RRGL that total \$3.7 million, but the DNRC will request \$7.5 million of bond issue authority. The lack of consistency came to light during the budget analysis of the RRGL loan/bond program. The difference in the program appropriations provided in the executive budget and appropriations provided by the DNRC indicate that the executive budget office did not have all the information necessary to develop the RRGL loan/grant program budget. The increased request will create the appearance that the legislature has increased the total appropriations recommended in the executive budget by approximately \$3.8 million.

FUNDING - LOANS

RRGL program bond authority is provided in 85-1-624, MCA. Money in the coal severance tax bond fund is pledged for the payment of the principal and interest of the bond issue requested in RRGL loan/bond bill, as directed in Title 17, Chapter 5, part 7, MCA.

NOTE:

Bonds authorized in RRGL loan/bond bill are general obligation bonds, constituting a state debt and requiring a two-thirds vote of the members of each house of the legislature. Furthermore, the coal severance tax bond fund is pledged for debt service payments on the bonds, requiring a three-fourths vote of the members of each house as mandated by the Montana Constitution.

**LFD
COMMENT**

Community Loans: This biennium, DNRC is requesting bond authority of up to \$3 million for a loan program that will assist communities with either refinancing infrastructure debt or provide new loans to communities with special circumstances, those that cannot wait until the next legislative session. These loans would be carried by DNRC with a reduced interest rate of 3 percent. Examples of loans would be:

- Refinance of debt for communities that would like to connect to a regional water system, but cannot afford old debt and the new costs of the regional system
- Provide opportunities for a community to get construction supplies at a reduced rate, such as pipe for a future project

RECLAMATION AND DEVELOPMENT GRANTS PROGRAM

PROGRAM DESCRIPTION

Resource Indemnity Trust (RIT) investment earnings are a major source of revenue for several natural resource agencies and programs, including: 1) the Renewable Resource Grants and Loan Program (RRGL); and 2) the Reclamation and Development Grants Program (RDGP). The Board of Investments invests funds deposited in the RIT and some of the investment earnings are used to fund the RRGL and RDGP. For more detailed information on the allocation and expenditure of other RIGWA proceeds and RIT interest earnings, see the Department of Natural Resources and Conservation (DNRC) summary in Section C of the Legislative Fiscal Division Budget Analysis, Volume 5.

The Reclamation and Development Grants Program (RDGP) is designed to fund projects that:

“..indemnify the people of the state for the effects of mineral development on public resources and that meet other crucial state needs serving the public interest and the total environment of the citizens of Montana” (90-2-1102, MCA).

As provided in statute, projects approved under the RDGP are intended to:

- Repair, reclaim, and mitigate environmental damage to public resources from non-renewable resource extraction
- Develop and ensure the quality of public resources for the benefit of all Montana citizens

The RDGP is administered by DNRC, which solicits, evaluates, and ranks applications on a biennial basis. Those eligible to apply for grants include state and local governments, political subdivisions, and tribal governments. Applications are evaluated according to specific criteria related to:

- Public benefit
- Need and urgency
- Appropriateness of technical design
- Financial feasibility
- Project management/organization

DNRC forwards a list of recommendations to the executive, who reviews the list and submits funding recommendations to the legislature for appropriation. No grant may exceed \$300,000.

EXECUTIVE RECOMMENDATION

Figure 14 shows a priority listing of the RDGP grants recommended by the executive for the 2009 biennium. DNRC received applications totaling \$4.8 million. The RDGP will include a list of 18 projects with a recommended appropriation of \$5.2 million for the 2009 biennium, \$4.2 million to fund 16 projects and \$1.0 million to fund project planning grants. In accordance with 90-2-1113, MCA, priority consideration is given to the Montana Board of Oil and Gas Conservation for \$600,000 in grants (projects ranked 1 and 2) and abandoned mine reclamation projects for \$800,000 in grants (actual authorization of \$900,000 for projects ranked 3, 4, and 11) over the biennium. The remainder, approximately \$2.7 million, is recommended for other reclamation and development projects. Project grants are matched by non-RDGP funds from a variety of state, federal, private, and local sources.

FUNDING

Funding for the RDGP program is established in 90-2-1104, MCA, with the creation of the reclamation and development grant state special revenue account. Deposits to this account are made from four revenue sources (five distributions), including:

- Interest income of the resource indemnity trust fund under the provisions of 15-38-202 (2)(a)(iii), MCA (\$1.5 million each fiscal year for the purpose of making grants)
- Interest income of the resource indemnity trust fund under the provisions of 15-38-202 (2)(c)(iii), MCA

- (35% of the interest income remaining after all other statutory allocations)
- Resource indemnity and ground water assessment tax under provisions of 15-38-106 (2)(c), MCA (50% of the remaining proceeds, after appropriations for CIRCLA debt service, and \$366,000 to the groundwater assessment account, for the purpose of making grants to be used for mineral development reclamation projects)
 - Metal mines license tax proceeds as provided in 15-37-117 (1)(d), MCA (7% of total collections each year)
 - Oil and gas production tax as provided in 15-36-331 (4)(a)(ii), MCA (2.95% of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3))

Reclamation and Development Grants (RDGP) 2009 Biennium				
Rank	Sponsor/Title	Grant Requested	Grant Recommended	Cumulative Total
1	MT Board of Oil and Gas Conservation 2007 Southern District Orphaned Well Plug and Abandonment and Site Restoration	\$300,000	\$300,000	\$300,000
2	MT Board of Oil and Gas Conservation 2007 Northern District Orphaned Well Plug and Abandonment and Site Restoration	300,000	300,000	600,000
3	MT Department of Environmental Quality Snowshoe Mine Reclamation Project	300,000	300,000	900,000
4	MT Department of Environmental Quality Bald Butte Mine and Millsite Reclamation Project	300,000	300,000	1,200,000
5	MT Department of Natural Resources and Conservation St. Mary Facilities Rehabilitation	300,000	300,000	1,500,000
6	Powell County Milwaukee Roundhouse Voluntary Cleanup	285,380	286,000	1,786,000
7	MT Department of Natural Resources and Conservation Reliance Refinery	300,000	300,000	2,086,000
8	Central Montana Water Authority Utica Well 2	300,000	300,000	2,386,000
9	MT Board of Oil and Gas Conservation Southern District Tank Battery Cleanup	300,000	300,000	2,686,000
10	Meagher County CD Hydrologic Investigation of the Smith River Watershed	218,700	300,000	2,986,000
11	MT Department of Environmental Quality Belt Acid Mine Drainage Mitigation	300,000	282,000	3,268,000
12	MT Department of Environmental Quality Swift Gulch Placer Tailings and Wetland Establishment	300,000	150,000	3,418,000
13	Broadwater CD Whites Gulch Reclamation Fish Barrier Project	24,500	24,500	3,442,500
14	MT Department of Environmental Quality Landusky Mine – Characterization of Surface Water/Groundwater Interactions in Swift Gulch and the Adjacent Landusky Pit Complex	300,000	300,000	3,742,500
15	Big Horn CD Montana Regional Coalbed Methane	157,659	160,000	3,902,500
16	Gallatin Local Water Quality District Assessment and Distribution of Pharmaceuticals	293,765	294,000	4,196,500
Projects below this line were not recommended for funding				
	Geraldine, Town of Moonlight Meadow Test Hole Abandonment	265,000	0	4,196,500
	Montana Tech of the University of Montana Butte Native Plant Propagation Nursery	289,922	0	4,196,500
Total R&D Grants Requested/Recommended		<u>\$4,834,926</u>	<u>\$4,196,500</u>	

Figure 14

In the special session of August 2002, the legislature reduced many of the revenue distributions to the RDGP account for FY 2003, some of which were carried through FY 2005. The reductions temporarily lowered the amount of money available for grants. As of FY 2006, those revenues are again distributed to the RDGP account.

Reclamation and Development State Special Revenue Account (02458)		
Fund Balance Projection 2009 Biennium		
Estimated Beginning Fund Balance-(7/1/2007)		\$5,981,037
Revenue Projections ¹		
Resource Indemnity Trust Interest	\$3,000,000	
Resource Indemnity Trust Interest - Additional	524,650	
Resource Indemnity and Ground Water Assessment Tax	476,601	
Metal Mines Tax	2,270,000	
Oil and Gas Production Tax	<u>6,621,719</u>	
2009 Biennium Revenues		12,892,970
RDGP Recommendations ³		
Administration-(Grant Administration) DNRC ²	(288,715)	
DNRC-(Grant Administration) Conser. & Res. Devel. Div. ²	(2,449,102)	
Project Planning Grants	(1,000,000)	
Proposed RDGP Grants	<u>(4,196,500)</u>	
Total RDGP Recommendations		<u>(7,934,317)</u>
Balance		10,939,690
Non-Grant Related Expenditures ²		
Water Resources Division - DNRC	(251,612)	
Flathead Basin Commission	(172,709)	
DNRC Trust Lands Administration	(1,000,000)	
Central Management - DEQ	(94,418)	
Enforcement - DEQ	(8,810)	
Permitting and Compliance - DEQ	(3,328,148)	
State Library Operations - Library Commission - NRIS	<u>(782,872)</u>	
Total Non-Grant Expenditures		<u>(5,638,569)</u>
Estimated Ending Fund Balance - (6/30/2009)		<u>\$5,301,121</u>
¹ RTIC recommendations		
² Executive general appropriations act proposal		
³ Executive grant proposal		

Figure 15

The ending fund balance calculation for the RDGP grant account is shown in Figure 15. Appropriations from the account are authorized in 90-2-1104, MCA and state that appropriations may be made for grants and administrative expenses, including salaries and expenses for personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. Expenses may be funded before projects. The executive budget recommends \$2.7 in the general appropriation act for grant program administrative costs. Recommendations for various grants are \$5.2 million. The executive budget also recommends \$5.6 million of RDGP funds to be appropriated for non-grant related administration including administration costs of DNRC trust lands and operations at Department of Environmental Quality. The estimated fund balance for June 30, 2009 is expected to be \$5.3 million.

**LFD
ISSUE**

Unlawful Appropriation of Funds - The legislative legal staff believe that past legislatures have violated statute, 90-2-1104, MCA, by using funds in the reclamation and development grant program (RDGP) account for purposes other than the administration of the grant program and grants. Administration costs for non-grant related appropriations were allowed in the 2007 biennium under a temporary change in statute included in the RDGP grant bill.

In years of funding shortages, the legislature began using the funds in the RDGP account for purposes other than grants, and that practice has persisted through time. The original purpose of the account was to fund the costs of RDGP. Examples of the misuse are apparent in Figure 15. The appropriation of dollars for DEQ-Central Management, Library Commission, State Library Operations, DEQ-Enforcement, and others are not allowed under current permanent statute, which says:

- 3) "Appropriations may be made from the reclamation and development grants account for the following purposes:
 - a) grants for designated projects; and
 - b) administrative expenses, including salaries and expenses for personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded before funding of projects (90-2-1104, MCA)."

The improper account use came to light in the Fifty-ninth Legislature, and actions are underway to remedy the situation. The interim Legislative Finance Committee agreed to sponsor a bill that will change the funding of natural resource program administration and projects in future years. However, the 2009 biennium executive budget continues the practice of unlawful appropriation of RDGP funds. According to representatives of DNRC, the RDGP bill will again contain language to allow the appropriation of grant funds for the administrative functions of other non-grant programs in the 2009 biennium.

CULTURAL AND AESTHETIC GRANT PROGRAM

PROGRAM DESCRIPTION

The Cultural and Aesthetic Grant Program, as provided in Title 22, Chapter 2, part 3, MCA, is administered by the Montana Arts Council (MAC). Investment earnings from a statutory trust, which receives coal severance tax revenues, fund the grant program. By statute, the interest from the cultural trust is to be appropriated for protection of works of art in the State Capitol and other cultural and aesthetic (C&A) projects, 15-35-108, MCA.

Grant applications for cultural and aesthetic projects are submitted to the MAC on a biennial basis. Eligible applicants include the state of Montana and regional, county, city, town, or Indian tribal governments. A 16-member Cultural and Aesthetic Projects Advisory Committee, with eight members appointed by the Montana Arts Council and eight appointed by the Montana Historical Society, reviews each application. The committee prioritizes the requests and makes funding recommendations to the legislature as part of the executive budget. All grants require legislative approval in accordance with 22-2-306 through 309, MCA.

Cultural and Aesthetic Grant Program Appropriations by Biennium				
Biennium	Funds Appropriated / Recommended	General Fund Appropriated	Funds Expended	Number of Projects Funded
1987	1,476,511		1,414,114	63
1989	1,211,817		1,099,290	53
1991	1,298,788		1,184,661	65
1993	1,551,323		1,531,239	88
1995	1,706,735		1,267,952	93
1997	857,926		852,003	77
1999	1,489,453		1,416,787	79
2001	634,939	\$600,000	1,163,905	76
2003	705,425	532,575 ¹	1,176,602	74
2005	659,000	499,150	1,135,473	81
2007	1,371,020	100,275	1,326,015 Est.	84
2009	1,120,688 ²		N/A	82

¹ \$198,575 of general fund support replaced with lodging facility tax in FY 2003.

² Executive proposal

Figure 16 provides an historic perspective of the Cultural and Aesthetic Grant Program. In the table, projects are funded from the C&A account unless otherwise noted.

Figure 16

LFD COMMENT

Revenue Shortfall: In the past three biennia, the C&A grant program has experienced interest earnings that have not kept pace with legislative appropriations. Historically, language contained in the C&A appropriation bill to address revenue shortfalls has provided for a reduction of grants, those awards greater than \$4,500, on a pro-rata basis. While some grant recipients are able to absorb the lower grant terms, in a number of cases program plans for the grant dollars are established and irreversible, causing financial harm to the recipient. Typically, the grant program has allowed a five percent ending fund balance in recognition of the problem, yet in recent years the ending fund balance has not been adequate to avoid grant reductions. In the 2007 biennium, appropriations will again exceed revenues, and grants are expected to be reduced by over 20 percent. The Long-Range Planning subcommittee should be aware of this and use care to avoid appropriating funds in an amount greater than the anticipated revenue in the C&A program.

EXECUTIVE RECOMMENDATION

The executive recommendation for Cultural and Aesthetic grants will be introduced in the C&A bill, typically designated HB 9. The first C&A priority recommended for funding is a \$30,000 appropriation to the Montana Historical Society for the care and conservation of capitol complex artwork, in accordance with 2-17-805, MCA. The second priority is for 82 C&A grant awards totaling \$698,770. These recommended awards are listed in Figure 17 in priority order within four categories, which include Special Projects less than \$4,500, Special Projects greater than \$4,500, Operational Support Projects, and Capital Expenditure Projects.

Cultural and Aesthetic Grants (C&A)					
2009 Biennium					
Rank	Grant Number	Applicant	Grant Requested	Grant Recommended	Cummulative Total
Special Project < \$4500					
1	1207	Signatures from the Big Sky	\$4,500	\$4,500	\$4,500
2	1202	Flathead Valley Community College	4,500	2,000	6,500
3	1205	Miles City Speakers Bureau	4,500	4,000	10,500
4	1208	Valley County Historical Museum	4,495	4,000	14,500
5	1200	Council for the Arts, Lincoln	2,500	2,500	17,000
6	1204	Metropolitan Opera National Council	4,000	1,000	18,000
Projects below this line were not recommended for funding					
7	1203	Garnet Pres / Garnet Ghost Town	4,500	0	18,000
8	1206	Show Case Writer's Guild	4,500	0	18,000
9	1201	Crazy Mountain Museum	4,300	0	18,000
10	1209	Wholesome Entertainment Productions	4,500	0	18,000
Total Special Projects < \$4500			\$42,295	\$18,000	
Special Project > \$4500					
1	1228	Montana Committee for the Humanities	\$75,000	\$22,000	40,000
2	1224	Helena Symphony Orchestra and Chorale	35,000	10,000	50,000
3	1236	Pondera History Association	20,462	10,000	60,000
4	1239	Western Heritage Center	24,300	10,000	70,000
5	1225	KUFM-TV, Montana PBS	26,950	10,000	80,000
6	1213	Butte Citizens for Pres & Revitalization	19,920	10,000	90,000
7	1229	Montana Historical Society	26,170	7,000	97,000
8	1240	Yellowstone Chamber Players	11,270	6,000	103,000
9	1217	CoMotion Dance	20,000	10,000	113,000
10	1222	Glacier Symphony & Chorale	15,271	7,000	120,000
11	1232	Montana Performing Arts Consortium	40,300	15,000	135,000
12	1231	Montana Museum of Art & Culture	17,000	5,000	140,000
13	1234	Montana Shakespeare Co/Artists Group	17,000	6,000	146,000
14	1219	Emerson Cultural Center	23,520	7,000	153,000
15	1227	Montana Alliance for Arts Ed	10,000	5,000	158,000
16	1220	Equinox Theatre Company	50,000	8,000	166,000
17	1216	Children's Museum of Bozeman	16,000	5,000	171,000
18	1226	Missoula Art Museum	21,043	5,000	176,000
19	1210	Alpine Artisans	16,300	6,000	182,000
20	1223	Headwaters Dance Co	30,000	5,000	187,000
21	1241	Yellowstone Historic Center	60,000	8,000	195,000
Projects below this line were not recommended for funding					
22	1238	VIAs, Inc	23,500	0	195,000
23	1212	Billings Cultural Partners - Skinner/Benoit LLC	10,000	0	195,000
24	1233	Montana Poetry Project	28,082	0	195,000
25	1221	Florence Prever Rosten Fund for the Media Arts	20,000	0	195,000
26	1237	Prairie County Economic Dev Council	27,390	0	195,000
27	1211	Big Sky Repertory Theatre	90,000	0	195,000
28	1214	Buttenik Ensemble/ Covellight Thtr	18,472	0	195,000
29	1235	Pilgrim Congregational Church	12,000	0	195,000
W/D	1230	Montana Historical Society	0	0	195,000
W/D	1215	Butte-Silver Bow Public Library	0	0	195,000
Total Special Projects > \$4500			\$804,950	\$177,000	

Figure 17
(continued on next page)

Cultural and Aesthetic Grants (C&A)					
2009 Biennium					
Grant Rank	Grant Number	Applicant	Grant Requested	Grant Recommended	Cummulative Total
Balance:					\$195,000
Operational Support					
SSO1	1267	Montana Art Gallery Director's Assoc	\$40,000	\$15,000	210,000
SSO2	1276	Museums Association of Montana	30,000	10,000	220,000
SSO3	1270	Montana Assoc of Symphony Orchestras	22,600	5,000	225,000
SSO4	1269	Montana Arts	31,000	10,000	235,000
SSO5	1272	Montana Dance Arts Association	17,000	5,000	240,000
1	1253	Custer County Art & Heritage Center	32,000	15,000	255,000
2	1285	Schoolhouse History & Art Center	28,117	14,000	269,000
3	1242	Alberta Bair Theater	50,000	14,000	283,000
4	1248	Bozeman Symphony Society	20,000	11,000	294,000
5	1244	Art Mobile of Montana	30,000	14,000	308,000
6	1286	Shakespeare in the Parks	40,000	15,000	323,000
7	1259	Hockaday Museum of Art	38,500	14,000	337,000
8	1257	Great Falls Symphony Association Inc	28,000	9,000	346,000
9	1273	Montana Preservation Alliance	40,000	13,000	359,000
10	1293	Yellowstone Art Museum	78,000	9,000	368,000
11	1280	Paris Gibson Sq Museum of Art	65,030	13,000	381,000
12	1278	Myrna Loy Center	33,000	9,000	390,000
13	1249	Butte Center for the Performing Arts	32,000	12,000	402,000
14	1264	Missoula Children's Theatre	40,000	10,000	412,000
15	1260	Holter Museum of Art	60,000	12,000	424,000
16	1252	Carbon County Historical Society	30,000	11,000	435,000
17	1256	Grandstreet Theatre/Broadwater Productions	34,500	12,000	447,000
18	1274	Montana Repertory Theatre	20,000	10,000	457,000
19	1287	Southwest Montana Arts Council	17,630	8,000	465,000
20	1243	Archie Bray Foundation	50,000	10,000	475,000
21	1266	Montana Ag Center & Museum	24,000	8,000	483,000
22	1290	Whitefish Theatre Company	28,000	10,000	493,000
23	1255	Pioneer Museum/ Gallatin Hist Museum	14,000	5,000	498,000
24	1288	Vigilante Theatre Company	10,000	8,000	506,000
25	1292	Writer's Voice (Billings YMCA)	40,000	12,000	518,000
26	1251	Carbon County Arts Guild	20,000	7,000	525,000
27	1281	Pondera Arts Council	20,000	5,000	530,000
28	1282	Rimrock Opera Company	25,000	10,000	540,000
29	1247	Billings Symphony Society	25,000	8,000	548,000
30	1283	Rocky Mountain Ballet Theater	35,315	7,000	555,000
31	1250	Butte Symphony Association	25,000	8,000	563,000
32	1246	Big Horn Arts & Crafts Association	30,000	7,000	570,000
33	1289	VSA arts of Montana	12,000	6,000	576,000
34	1271	Montana Ballet Company	25,000	5,000	581,000
35	1291	World Museum of Mining	22,000	8,000	589,000
36	1279	NW MT Hist Soc/ Mus at Central Sch	36,000	5,000	594,000
37	1263	Mission Valley Friends of the Arts	11,920	4,000	598,000
38	1294	Young Audiences of Western MT	10,000	6,000	604,000
39	1245	Artisan Dance	50,000	4,000	608,000
40	1258	Hamilton Players, Inc	35,350	6,000	614,000
41	1275	Museum of the Rockies	<u>60,000</u>	<u>6,000</u>	620,000
Sub-Total			\$1,465,962	\$425,000	

Figure 17
(continued on next page)

Cultural and Aesthetic Grants (C&A) 2009 Biennium						
Rank	Grant Number	Applicant	Grant Requested	Grant Recommended	Cummulative Total	
Operational Support (cont.)			Balance	\$1,465,962	\$425,000	\$620,000
42	1284	CM Russell Museum	40,000	9,000	629,000	
43	1261	Intermountain Opera	33,450	8,000	637,000	
44	1254	District 7 HRDC Growth Thru Art	40,000	8,000	645,000	
45	1262	Miles City Preservation Comm	5,080	2,270	647,270	
Projects below this line were not recommended for funding						
46	1268	Montana Artists Refuge	13,260	0	647,270	
47	1277	Musikanten Montana	16,000	0	647,270	
48	1265	Missoula Writing Collaborative	73,920	0	647,270	
Total Special Projects Operational Support			\$1,687,672	\$452,270		
Capital Expenditure						
1	1295	Butte-Silver Bow Public Archives	\$25,000	\$15,000	\$662,270	
2	1300	Mai Wah Society/ Museum	30,000	17,500	679,770	
3	1297	City of Shelby	45,000	8,000	687,770	
4	1303	Yellowstone Ballet Company	3,000	3,000	690,770	
5	1302	TVIA -Board of Arts	10,000	8,000	698,770	
Projects below this line were not recommended for funding						
6	1299	Lewis & Clark Interpretive Center Foundation	28,000	0	698,770	
7	1301	Missoula Community Performing Arts Center	50,000	0	698,770	
8	1298	Friends of Wedsworth Memorial Library	16,473	0	698,770	
9	1296	City of Helena	11,525	0	698,770	
10	1218	Darby Public Library	10,000	0	698,770	
Total Special Projects Capital Expenditure			\$228,998	\$51,500		
Total C&A Grants Requested/Recommended			\$2,763,915	\$698,770	\$698,770	

Figure 17 (continued from previous page)

During the 2007 biennium there are no projects recommended in the fifth, "Challenge Grant", category. The executive budget also includes a recommendation for \$391,918 in C&A funds to be appropriated in the general appropriations act (HB 2) to fund Montana Art Council administrative costs and the costs of the Folklife program. Total executive recommendations are \$1.1 million.

The executive recommendation includes two proposals that increase the monies available for appropriation. First, a transfer of \$500,000 in one time general fund dollars to the cultural trust will complete the repayment of trust fund corpus used in 1997 for the purchase of the historic Virginia and Nevada cities. Second, the executive budget recommends a transfer of \$1.0 million to the trust to enhance interest earnings used for cultural projects. The combined transfer of \$1.5 million to the trust principal will supply additional grant funding of \$166,410 in the 2009 biennium.

LFD COMMENT

Grant Funding: According to representatives from the Montana Arts Council, the C&A grants program has faced growing fiscal stress over the past decade. Much of the stress resulted from the use of C&A grant funds for the purchase of Virginia and Nevada Cities, which temporarily reduced the principal of the trust fund \$3.9 million. However, even with the principal of the trust restored and a trust deposit of \$1 million of general fund one-time only dollars, the currently low rate of return in the trust fund bond pool causes reduced grant awards. Statistics show that since FY 1994, the average grant award has been reduced by half. At the same time, grant requests have increased by nearly 32 percent. The Long-Range Planning Subcommittee may wish to evaluate the situation and propose methods to reduce the stress in the C&A program.

FUNDING

Prior to the 1997 legislative session, the C&A Grant Program was funded entirely with interest earnings from the cultural trust. However, the 1997 Legislature appropriated \$3.9 million, approximately half of the trust corpus, for the purchase of Virginia City and Nevada City properties.

The cultural trust receives a statutory 0.63 percent of coal severance tax revenues, but that proportion has changed numerous times since the corpus reduction of 1997. In order to compensate for the lost interest earnings resulting from the reduced corpus, the 1997 Legislature allocated 0.87 percent of coal severance tax revenue to the C&A project account for the 1999 biennium only. Consequently, the trust was capped in FY 1998 and 1999. In FY 2000, the coal severance tax allocation to the cultural trust was returned to 0.63 percent. The remaining 0.24 percent of coal severance taxes allocated to the C&A project account for the 1999 biennium was statutorily directed to the general fund.

In FY 2002 two actions were taken to increase revenues to the general fund. First, the C&A project grants were reduced by \$25,000. Next, the distribution from the coal severance tax was diverted out of the cultural trust and into the general fund. The elimination of the flow caused a reduction in interest available for FY 2003. Additionally, during the special session of August 2002, general fund support of \$198,575 in FY 2003 was replaced with lodging facility use tax revenue. In the 2009 biennium, the interest income from the cultural trust represents the only statutory funding for the C&A grant program.

Based on the assumptions adopted by the Revenue and Transportation Interim Committee (RTIC), interest and earnings of the cultural trust will total \$1.0 million for the 2009 biennium. The executive budget includes \$391,918 for administrative expenses and the folklife program, \$30,000 for a statutorily required appropriation for capitol complex works of art, and grant funding proposals of \$698,770. Under present law, total appropriations would cause a negative ending fund balance of \$114,688.

Figure 18 shows the projected fund balance for the 2009 biennium. The executive proposal to replace \$500,000 of the trust corpus and to add \$1.0 million to generate additional grant revenues will be required to achieve a positive ending fund balance at the end of FY 2009. The executive budget states that the transfer will occur at “the beginning of FY 2008”. Assuming the transfer occurs on July 1, 2007 and the monies are immediately invested in the trust fund bond pool, the increase in corpus will equate to approximately \$166,410 in new interest earnings. With approval of the transfers and the executive recommendation, the C&A grant fund is expected to have a June 30, 2009 ending fund balance of \$51,722.

Cultural & Aesthetic Grant Fund (02009) Fund Balance Projection, 2009 Biennium	
Estimated Beginning Fund Balance (7/1/2007)	\$0
Revenue Projections ¹	
2008 Investment Earnings	\$496,000
2009 Investment Earnings	<u>510,000</u>
2009 Biennium Revenues	1,006,000
Proposed Expenditures	
Administration and Folklife	(391,918)
Capitol Complex Works of Art	(30,000)
Grants	<u>(698,770)</u>
Total Expenditures	(1,120,688)
Balance	(114,688)
Executive Proposals:	
General Fund Transfer to Restore Corpus, \$1,500,000 ²	
Fiscal 2008 Interest	83,129
Fiscal 2009 Interest	<u>83,282</u>
Total New Interest	<u>166,410</u>
Estimated Ending Fund Balance (6/30/2009)	<u>\$51,722</u>
¹ RTIC recommendations	
² Based on transfer of \$1,500,000 July 1, 2008 and average interest rates of 5.54% in FY 2008 and 5.55% in FY 2009	

Figure 18

LRB Consolidated Information Technology Projects

PROGRAM DESCRIPTION

If approved by the 60th Legislature, Long-Range Building Consolidated Information Technology Projects (LRCIT) would constitute an alternative method of funding large information technology (IT) investments. The LRCIT would consolidate all major IT projects, those costing in excess of \$2 million, in one appropriation bill and define major IT enterprises as capital projects. All projects included in the LRCIT bill fall under the administration of the state chief information officer (CIO) within the Department of Administration (DOA).

The proposed consolidation of major IT projects is intended to achieve several goals of the administration. First, IT projects are complex and require significant and time intensive planning, design, and management efforts. By designating the projects as “capital projects”, the appropriation continues until completion of the project, as statutorily authorized in 17-7-212, MCA. Second, most of the project funds are appropriated to the DOA for the state CIO. This is expected to enhance project management and foster stronger partnerships between agencies and the state CIO. Finally, having all the major projects in one piece of legislation is anticipated to provide the legislature with a broad vision of the state IT program and related investments.

EXECUTIVE RECOMMENDATION

Figure 19 shows the executive recommendation and cost of each of the LRCIT projects.

Long-Range Building Consolidated Information Technology Projects (LRCIT) Executive Recommendation - 2009 Biennium				
<u>Agency / Project / Discription</u>	<u>Executive Recommendations (millions)</u>			
	<u>General Funds</u> <u>(GF)</u>	<u>Federal Funds</u> <u>(FF)</u>	<u>Total</u>	<u>GF / FF Split</u>
<u>Department of Administration</u>				
Northern Tier Network and SummitNet Expansion and improvement projects	\$7,823,000		\$7,823,000	
Statewide E911 Network Projects to enhance current 9-1-1 system	4,000,000		4,000,000	
Public Safety Radio Consortium Expansion of key public safety radio sites	5,000,000		5,000,000	
Public Safety Radio Interoperability Redundant controller and transmission, public safety wireless	3,500,000		3,500,000	
<u>Department of Public Health and Human Services</u>				
Child and Adult Protective Services System Replace CAPS system	15,204,000	11,946,000	27,150,000	56 / 44
TANF Eligibility Systems Replace TEAMS system	7,625,750	8,599,250	16,225,000	47 / 53
CHIMES Replace TEAMS system	550,000	550,000	1,100,000	50 / 50
Food Stamp Eligibility Systems Replace TEAMS system	6,535,000	6,535,000	13,070,000	50 / 50
Medicaid Disease Codes Replace current code system for federal agreement	300,000	2,700,000	3,000,000	10 / 90
<u>Judicial</u>				
FileNet Court technology Improvements	3,935,000		3,935,000	
Total Projects	<u>\$54,472,750</u>	<u>\$30,330,250</u>	<u>\$84,803,000</u>	

Figure 19

The four projects of the Department of Administration provide enhanced services in relation to current systems. The Northern Tier Network project is part of a national consortium effort to create a high-speed network

from Seattle to Chicago. The appropriation will be used to fund equipment purchases and maintenance to lay two high fiber optic lines through the I-90 corridor. The SummitNet project will support a number of improvements to the existing network. The project will establish redundant Core Network Infrastructure that provides failover points in the network and insure connectivity of critical services. The Statewide E911 project will support the multi-year build-out of the E911 network and the development of a state-of-the-art system. Project appropriations will provide wireless public safety position determining equipment and other functionality. The Public Safety Radio Consortium project will support the multi-year build-out of the Interoperability Montana wireless public safety radio system, and the Public Safety Radio Interoperability program will support the deployment of a redundant controller and transmission system for the Interoperability Montana wireless public safety radio system.

The LRCIT projects for the Department of Public Health and Human Services includes five projects. All are replacements for current obsolescent systems. All the systems recommended for replacement are old and built on technology platforms that are out of date. Current systems are restrictive in the capacity for change and upgrade and are difficult to support. The new Child and Adult Protective Services System will replace the current CAPS system. The CAPS system no longer meets the needs of the users and does not meet mandated reporting requirements. Three projects (TANF Eligibility, CHIMES, and Food Stamps Eligibility projects) will replace the TEAMS system. The TEAMS mainframe system is inefficient and does not meet the needs of the users. Many eligibility functions must be performed manually outside of the system (replacement of CHIMES began in an earlier biennium and the appropriation will fund project completion). Finally, the Medicaid Disease Code project will replace the International Classification of Diseases-9-Clinical Modification System and implement a set of new procedural and diagnosis codes for the Medicaid Management Information System of federal coding and reporting.

The FileNet project will provide funding to continue the Judicial Branch efforts to modernize the courts in a manner that meets the needs of the branch while conforming to current information technology standards. The project will provide court technology improvements including improvements to case management and court room technology.

FUNDING

The total cost of projects in the LRCIT is \$84.8 million. Project funding will come from a combination of one-time only general funds and the federal fund match to state dollars for projects in the Department of Public Health and Human Services. The one-time general fund cost for the ten projects is \$54.5 million and the funds will be transferred to a capital projects fund. If projects are defined as “capital projects”, the spending authority will continue until the project is completed.

LFD ISSUE

Transfer Contingency: Section F of the executive budget did not include any reference to the funding mechanism for the Long-Range Consolidated Information Technology program (LRCIT). Information describing the use of one-time only general funds for the projects was included in the “Information Technology Recommendations” section of the executive budget. The executive budget did not provide information on how or when the transfers would take place or to where the funds would be transferred. Furthermore, the executive budget proposal did not include any detail on the contingent nature of the FY 2009 transfers.

Information obtained during the analysis of the LRBP budget provided the understanding that the funds would be transferred to a capital projects type fund. Furthermore, information provided at the later date led to an understanding that the total funding request of the LRCIT program would be transferred as follows:

- \$3.2 million upon passage and approval (of the LRCIT bill)
- \$17.8 million in FY 2008
- \$33.5 million in FY 2009 (with a contingency of at least \$100 million as a general fund ending fund balance)

FY 2009 one-time only transfers are proposed by the executive to be contingent on an ending fund balance in the general fund of at least \$100 million, after the transfers. However, no other pertinent information was provided to the Legislative Fiscal Division (LFD). Currently, the LFD has no information on how or when the calculations of the general fund ending fund balance will occur or how the transfers would be reduced. For example, if the general fund balance is projected to be \$90 million, will the transfers be eliminated totally or will they be adjusted by some pro-rata percentage? The lack of specificity affects the ability of the LFD to provide a thorough analysis of the program. If state revenues do not come in as anticipated, the LRCIT program could face reductions in the final transfer. Furthermore, the transfers will necessarily be delayed until a time near the end of the FY 2009.

In the LRCIT program, the transfer reduction could cause appropriations to exceed available funds, which is in direct violation of the Constitution. No information has been provided concerning how appropriation reduction will occur, and there is no information that suggests that the legislature will retain oversight of appropriation reductions. The Long-Range Planning subcommittee may wish to recommend approaches to ensure legislative participation and oversight in the process.